

Compensation for . . . Man and Maid.

Oscar M. Wihl, B.A., LL.B.

KD
3224
.5
W66

Price 2/- net.

COMPENSATION FOR

Man and Maid

UNDER THE

WORKERS

IS PROVIDED

THAT

WHOSE

ASSURANCE

SPECIAL

Personal

THE
MARTIN P. CATHERWOOD
LIBRARY
OF THE
NEW YORK STATE SCHOOL
OF
INDUSTRIAL AND LABOR
RELATIONS



AT
CORNELL UNIVERSITY

& Guarantee
Company, Ltd.,

100.

Sickness, fire, burglary, &c.

Write for Prospectus and full particulars to—

HEAD OFFICE : MOORGATE STREET, LONDON, E.C.

OR ANY OF THE CORPORATION'S BRANCHES OR AGENCIES.

General Manager and Secretary, RICHARD J. PAULL.

THE
UNITED LEGAL
Indemnity Insurance Society, Ltd.

Head Office :
222-225 STRAND, LONDON.

THIS OFFICE IS ASSOCIATED WITH, AND ITS POLICIES ARE
GUARANTEED BY, THE

**LAW GUARANTEE AND TRUST
SOCIETY, LTD.,**

OF 49 CHANCERY LANE, LONDON.

whose Capital and Funds are as follows :—

CAPITAL FULLY SUBSCRIBED	-	-	£2,000,000
PAID UP	-	-	200,000
UNCALLED	-	-	1,800,000
RESERVE FUND	-	-	205,000

EMPLOYERS' LIABILITY INSURANCE.

INCLUDING THE INSURANCE OF

DOMESTIC SERVANTS & SHOP ASSISTANTS.

PUBLIC LIABILITY INSURANCE.

MOTOR-CAR INSURANCE.

**BURGLARY, HOUSEBREAKING & LARCENY
INSURANCE.**

PLATE-GLASS INSURANCE.

PERSONAL ACCIDENT ASSURANCE.

Applications for Agencies Invited.

NOW READY.

84 PAGES. DEMY 8vo. PRICE 3s. 6d. NET. POST FREE 3s. 9d.

Bookkeeping

for Executors and Trustees.

NEW WORK

By **L. WHITTEM HAWKINS,**
Chartered Accountant.

Full and explicit directions for keeping the Books and preparing
the Accounts of Trust Estates; Supplemented by

A SPECIMEN SET of BOOKS and EXAMPLES of STATEMENTS of ACCOUNT

CONTENTS.

THE Set of Books—The Ledger (with a short explanation of the principle of Double-Entry)—The Cash Book (showing how Capital and Income are separated)—The Petty Disbursements Book—Vouchers—Apportionment as between Capital and Income—Investment Accounts—Expenses of the Trust—Wasting Assets—The Capital Account—Beneficiaries' Accounts—Income Tax—The Trial Balance—The Income Account—The Balance Sheet—Statements of Account for Beneficiaries—Closing the Executorship—The Accounts of a Trustee as distinguished from an Executor—Index.

*The Specimen Set of Books is specially bound
so that it can be examined side by side with the Text relating to it.*

3s. 6d. Net. Post Free 3s. 9d.

ORDER FORM.

To Messrs. Gee & Co.,
34 Moorgate Street, London, E.C.

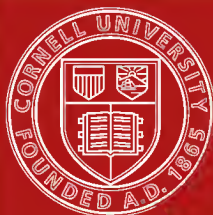
Date.....

Please supply..... cop..... of
BOOKKEEPING FOR EXECUTORS AND TRUSTEES. Enclosed
is remittance for.....

Name.....

Address.....

COMPENSATION FOR MAN AND MAID.



Cornell University
Library

The original of this book is in
the Cornell University Library.

There are no known copyright restrictions in
the United States on the use of the text.

COMPENSATION FOR MAN AND MAID.

A full explanation of the Workmen's
Compensation Act, 1906, with
Tables and Special Chapters on
Industrial Diseases, Seamen, and
Domestic Service, together with the
Text of the Act briefly Annotated.

BY

OSCAR M. WIHL, B.A., LL.B.,

of Lincoln's Inn, and the Northern Circuit, Barrister-at-Law.

LONDON :

GEE & CO., PRINTERS AND PUBLISHERS, 34 MCGORGATE STREET, E.C.

—
1907.

6615

F118

A 372468

Property of
MARTIN P. CATHERWOOD LIBRARY
NEW YORK STATE SCHOOL
INDUSTRIAL AND LABOR RELATIONS
Cornell University

KD
3224
.5
W66

PREFACE.

THE following pages do not constitute a law-book, although their topic is throughout of law. They are intended for the use of the public generally, not of any particular section. In them, if I have in any way succeeded in attaining my object, will be found a careful and detailed explanation of the Workmen's Compensation Act, 1906. I have, I believe, omitted no provision which it would be useful for any employer or any workman to know, and I have striven throughout to avoid all technical expressions, and to write in a simple and straightforward manner. Wherever possible I have presented the matter in tabular form, so that each distinct portion could stand out in due prominence. Above all, the whole has been conceived as an essay—*i.e.*, it has been regarded as a connected subject, of which the various parts, in due subordination and correlation, could be logically developed. By this treatment a direct course can be followed from start to finish, each chapter springing naturally and logically from its predecessor. Doubtless it would have been a far easier task to have followed the common practice of taking the sections or subsections one by one in the order they stand in the Act, and adding explanatory matter and a system of cross-references. But this method, although proper and convenient when the book is intended primarily for the legal practitioner, would not have answered my purpose. My aim has been to produce a book *to be read*, not merely referred to. Will it, then, be of no value to a lawyer? I do not think that I am immodest in claiming that, for some purposes, a

lawyer or a legal student and others, such as those dealing with insurance matters, may derive benefit from a perusal of these pages. The presentation of the subject as a whole, rather than as a series of detached fragments; the analysis and grouping of the matter under logically connected heads; the bringing clearly into view the conditions which must co-exist before a result obtains—all these must surely be of value to any one who wishes to familiarise himself with the Act. And I add to these that the discussion of some extremely difficult points, by one not utterly without qualification to handle them, serves to present a different point of view, and so aids in the deduction of correct conclusions.

But, despite all this, it is for the public generally that these pages have been penned. The Act imposes upon the employer such heavy burdens, and is couched in language that is so unintelligible to those who must bear these burdens. As a piece of legislation it is marked by haste and want of careful thought. The problems it seeks to solve, even if they have been grasped in their economic details, have been shirked. Perhaps, after all, no fair solution could be found which did not include some system of compulsory insurance, to which employers and workmen contributed in their proper proportion. Certainly it is a pity, and a blemish, that some of the points left open under the older Acts, and left in an unsettled state by the litigation which they encouraged, should not have been courageously tackled and somehow disposed of.

The great impression made by the inclusion—it would be better to write non-exclusion—of domestic servants has led me to consider this point carefully in the eleventh chapter—"For Householders." There will be found a classification of all the persons with whom a householder enters into contracts of service. From this it will be at once apparent that his liability

is more extensive than has been generally assumed, and therefore the necessity to insure against the liabilities is made, if possible, more imperative.

I conclude these prefatory remarks with the expression of the hope that criticism may lead to the elimination of any inaccuracies, and so enhance the utility of this little book.

OSCAR M. WIHL.

CONTENTS

PREFACE	v.
---------	-----	-----	-----	-----	-----	-----	----

TABLE OF MAIN PROVISIONS OF THE ACT	xii.
-------------------------------------	-----	-----	-----	-----	-----	-----	------

CHAPTER I.—THE 1906 ACT AND THE OLDER LAW.	1
--	-----	-----	-----	-----	-----	-----	---

Commencement of the Act—General conditions of the liability to pay compensation—The sequence of Employer ; Workman ; Accident ; Injury ; Compensation—Plan of the work based on this sequence—What the Act repeals—Remedies independently of the Act—The workman may choose—Disadvantages of proceeding independently of the Act.

CHAPTER II.—WHERE THE ACT DOES NOT APPLY	5
--	-----	-----	-----	-----	-----	-----	---

Two groups of cases (a) *Employments to which the Act does not apply*—Seven such employments—Enumeration of these—(b) *When employers and workmen have contracted out of the provisions of the Act*—Contracting-out allowed on conditions—The conditions are two (1) Certified scheme ; (2) Contract to adopt same—Interests of workmen fully protected—Provisions to ensure this considered.

CHAPTER III.—WHEN THE CLAIM TO COMPENSATION IS BARRED	10
---	-----	-----	-----	-----	-----	-----	----

Table of cases—Where compensation cannot be obtained—The difference between the groups—*Where the disablement is too slight*—Disablement must be for at least a week—Meaning of this discussed—*Serious and wilful misconduct of workman*—In what does this consist ?—*Proceedings not taken in time* (a) Notice of the accident—To be given as soon as possible—How it is served—What it must contain—Its form—(b) Claim for compensation—To be made within six months—What it must contain.

CHAPTER IV.—WHO ARE EMPLOYERS 18

Meaning of the word *Employer*—In the Act at same time narrower and wider than in ordinary use—*Who are not employers*—Definition of who are employers—Master of an apprentice is an employer—The person liable to pay compensation—Liability of third parties for damages—*Sub-contracting*—Description of workman's position under, in agricultural work—Bankruptcy of employer—When compensation is a preferential debt—Effect of a contract of insurance—Winding-up for reconstruction or amalgamation—The Crown as a private employer—Claim lies against head of department.

CHAPTER V.—WHO ARE WORKMEN 24

Meaning of *workman* in the Act—Can be derived from definition of employer—*Who are not workmen*—Who are—The contract of service—Can be written, verbal, or implied—Services can be of any description—Who are *dependants*—Consideration of two classes of workmen postponed.

CHAPTER VI.—FOR WHAT IS COMPENSATION GIVEN ... 27

For what is compensation given?—Answer involves matters requiring explanation—Conditions necessary for compensation—Table of these—Three of them to be discussed—*Personal injury*—What it is—Disease may be—*Personal injury must be by accident*—What is an accident?—Analysis of—Definition of—*Accident arising out of, and in the course of, employment*—Meaning of this discussed—Imposes limits on unexpectedness of the accident—Extended meaning in cases of emergency.

CHAPTER VII.—THE AMOUNT OF THE COMPENSATION . 33

What amount of compensation is payable—Table of the cases—*Average weekly earnings*—How calculated—Incidental expenses—Concurrent contracts—Where incapacity only partial—Payments made by employer during the incapacity—*How compensation money is dealt with* (a) When to dependants—Paid into Court—Invested—Interests of dependants settled—Varying such settlement—(b) When weekly payments—Redemption of—Review of—Workman leaving United Kingdom—Compensation money protected for workman's benefit.

CHAPTER VIII.—HOW COMPENSATION IS OBTAINED ... 40

Subject of this Chapter is procedure—*Methods by which questions under the Act are settled* (1) Agreement; (2) Arbitration—Four cases of arbitration—Appeal on questions of law—*Medical examination*—Workman must submit to—*Medical referees*—Who are—What are their duties?—*What Courts have jurisdiction*—Costs of proceedings—The procedure in a normal case—Outline of—Registering memorandum of decided questions.

CHAPTER IX.—INDUSTRIAL DISEASES ... 47

General provisions of the Act modified for (1) Industrial diseases; (2) Seamen—General remarks upon the modifications—*Industrial diseases*—What are these?—Table of, and processes in which they are contracted—When a personal injury by accident—Employers' special defence against claim—The five principal modifications—Presumption of cause of disease—Rules where there have been different employers.

CHAPTER X.—SEAMEN ... 54

Who are not within the Act—Two classes—Who are within the Act—Five classes—Two conditions before seaman can claim—Modifications in favour of seamen—Notice of the accident—The case of an injured master—Time within which claim must be made—Limitations on amount to be paid—No deductions from compensation—Evidence admitted in certain cases.

CHAPTER XI.—FOR HOUSEHOLDERS ... 60

How domestic servants are within the Act—There should have been special provision—A domestic servant is a *workman*—No need to define domestic service—Four classes of employment under householder—Consideration of liability in each class—Conditions of liability—Memorandum of any agreement to be registered—Concluding remarks and advice to insure.

CHAPTER XII.—THE TEXT OF THE WORKMEN'S COMPEN-
SATION ACT, 1906, WITH BRIEF ANNOTATIONS... 67

NOTE.

The Act applies to Scotland and Ireland. Readers who desire to know how it will affect them in either of these countries may consult this book, as the only modifications required to meet their circumstances are:—

(1) For Scotland—

Sheriff Court = County Court.

Sheriff = Judge of County Court.

Sheriff Clerk = Registrar of County Court.

Act of Sederunt = Rules of Court.

For Ireland—

- (2) (a) The Recorder of any town or city must be understood to be included in the phrase Judge of County Court.

(b) An appeal lies from the Court of Appeal to the House of Lords.

TABLE OF THE MAIN PROVISIONS OF THE ACT OF 1906.

APPLICATION	EMPLOYER	WORKMAN	INJURY	STEPS TO COMPENSATION	AMOUNT OF COMPENSATION
To all employments except :— 1. Naval and Military Forces. 2. Police and Constabulary. 3. Outworkers. 4. Members of employer's family living with him. 5. Those in receipt of more than £250 a year for work other than manual. 6. Casual employment, unless for a trade or business. 7. Crews of a fishing vessel having shares of profits.	Is the person who is liable to pay the compensation, and is the one for whom another works under a contract of service. If dead, such person's legal representatives.	Is the person who works for the employer under a contract of service. Includes also such person's legal representatives and dependants.	Must be personal, by accident, and arise out of and in the course of the employment. Disease may be such an injury.	1. Notice of accident. 2. Claim for compensation. 3. Agreement between parties, or Arbitration.	1. If workman has died as a result of injury leaving dependants wholly dependent—earnings for the last three years, but not less than £150, and not more than £300. 2. If workman has died as a result of injury leaving only dependants partly dependent—earnings for the last three years, but not more than £300, or such less sum as arbitrator may deem proper. 3. If workman has died as a result of injury leaving no dependants—more than £10 for reasonable medical expenses and burial fees. 4. If workman totally or partially disabled—weekly payments of not more than £1 per week; up to this limit half his average weekly earnings. 5. If workman under 21 years totally incapacitated—weekly payments of not more than 10/- per week up to this limit half his weekly earnings; or, if these be less than £1, the whole.
	No compensation is recoverable if the incapacity does not last for at least one week. If the incapacity lasts less than a fortnight no compensation is recoverable for first week.				
	Special modifications of the ordinary provisions exist for (1) Seamen, and (2) those suffering from Industrial Diseases.				
	Medical referees act as arbitrators to decide disputed medical questions, as to real cause of injury, condition of workman, and so on.				

Compensation for Man and Maid.

CHAPTER I.

THE 1906 ACT AND THE OLDER LAW.

Commencement of the Act—General conditions of the liability to pay compensation. The sequence—Employer—Workman—Accident—Injury—Compensation. Plan of the work based on this sequence—What the Act repeals—Remedies independently of the Act—The workman may choose—Disadvantages of proceeding independently of the Act.

ON the first day of July 1907 the Workmen's Compensation Act, 1906, comes into operation. On and after that date, if in any employment personal injury by accident arising out of and in the course of the employment is caused to any workman, his employer will be liable to pay compensation. This liability, however, is subject to the definitions and conditions laid down by the Act, and these very considerably curtail the otherwise universal application of the Act. In the following pages we will consider the actual meaning of the words given above when these limitations are read into them, and in this manner we will arrive at an understanding of the conditions under which an employer must make, and a workman can receive, compensation.

In general terms one thing is already obvious—namely, that there can be no question at all of compensation unless there is an employment, and a personal injury by accident connected

with the employment. This at once gives us the logical basis upon which to found our investigation, and we hope by careful building on this foundation to present the subject as one well-balanced structure—a coherent whole, in which all the separate portions have a defined and appropriate place. Each section, (once some preliminary matter has been removed, comparable, to keep to our building simile, to the excavation till a firm bottom be found) should follow naturally and directly from what has gone before, and thus preserve a continuous and progressive course till the work is completed.

We have said that an employment is of necessity pre-supposed before any question of compensation can arise. Now, an employment implies—

- (1) A person who uses the services of another—*the employer* : and,
- (2) The person of whose services use is made—*the workman*.

Thus we have the sequence—employer—workman—accident—injury—compensation—and this sequence gives the plan of the following book. Its terms form the headings under which will be grouped the provisions of the Act—they form, as it were, the ground plan of our building. But, before we can commence thus systematically, there is some navvying to be done—some preliminary matter to be cleared away. When this has been accomplished our course will be comparatively clear ahead, but, if left over now, complications would arise later and only serve to perplex and annoy.

The preliminary matters are :—

- (1) How the existing law is affected by the Act ;
- (2) Cases excluded from the operation of the Act ; and,
- (3) When the claim for compensation is barred.

With regard to number (1) above, we must consider this under two heads, so that we arrange the matter—

(1) *How the existing law is affected by the Act :—*

(a) *Actual Repeals.*

(b) *Actions for Damages or Compensation independently of the Act.*

ACTUAL REPEALS.

The 1906 Act repeals the earlier Acts of 1897 and 1900 entirely, except that these Acts will continue to govern all cases in which the accident occurred before the 1st July 1907. Even in these cases, wherever there are any references of questions to medical referees, or any proceedings arising from any such references, the provisions of the 1906 Act with regard to such references, are to be substituted for the corresponding provisions of the earlier Acts. Who are medical referees and what are the matters referred to them we shall see later in Chapter VIII., p. 41.

ACTIONS FOR DAMAGES OR COMPENSATION INDEPENDENTLY OF THE 1906 ACT.

A workman injured by accident in the course of his employment may bring an action for damages against his employer either under the Common Law (*i.e.*, the law of the land other than that contained in Acts of Parliament or cases decided under such Acts) or under the Employer's Liability Act, 1880. If death ensues from the accident his legal personal representatives (*i.e.*, his executor or administrator) or his near relatives may bring a claim for compensation under Lord Campbell's Act. We do not here intend to describe or examine these remedies in detail. It is sufficient to state that the Common Law, while of wide scope, is yet subject to many limiting rules, that the Employer's Liability Act is of comparatively narrow

application, and that one and all, from the workman's point of view, possess the disadvantage that to succeed he must definitely establish some personal negligence or wilful act, either of the employer or of some person for whom the employer is responsible. The Act of 1906 does not deprive the workman of his remedies under any of the above-named statutes. He has an option to take any course he pleases. But he cannot take proceedings under the Act and also bring an action independently of the Act. Should he have elected to bring an action independently of the Act, and the verdict goes against him, he must—in his own interests—at once make application to the Court before which the trial has taken place for an assessment of the compensation he might have been entitled to under the 1906 Act. If his action has been brought within six months of the accident, and if the Court on such an application finds that the workman would have been entitled to compensation under the 1906 Act, the Court will assess the amount of such compensation. The assessment under these circumstances will have the same consequences and be treated in all respects as an award under the 1906 Act. The workman should note, and this should weigh with him in making his choice of proceedings, that the Court has the power to deduct from the amount awarded as compensation all or any part of the costs incurred by bringing the action instead of proceeding under the 1906 Act. This exhausts for our purposes the head numbered (1) above. For the cases under the second head we will open a new chapter.

CHAPTER II.

WHERE THE ACT DOES NOT APPLY.

Two groups of cases:—

- (a) Employments to which the Act does not apply—Seven such employments—Enumeration of these.
- (b) When employers and workmen have contracted-out of the provisions of the Act—Contracting-out is allowed on conditions—The conditions are two: (1) Certified scheme; (2) Contract to adopt same—Interests of workmen fully protected—Provisions to ensure this considered.

THE subject of the present chapter is the second head given in the last chapter, viz. :—

Cases excluded from the operation of the Act.

Under this head we group two classes—

- (a) *Employments to which the Act does not apply.*
- (b) *When Employers and Workmen have contracted-out of the provisions of the Act.*

These two groups stand entirely outside the operation of the Act, though not in exactly the same fashion. In group marked (a) it has only to be shown that the employment is one of those excluded from the Act, and the matter is at an end, so far as the Act is concerned. In group (b) there are elaborate conditions provided by the Act which have to be strictly fulfilled before the Act is excluded. The difference between the groups is one of detail rather than of kind, for if the conditions are fulfilled then the Act is as much set aside in the one case as

the other. But this matter of detail is important, since while a question can scarcely arise as to group (a), it is quite conceivable that numerous questions may be raised with reference to group (b). Taking group (a) first—

EMPLOYMENTS TO WHICH THE ACT DOES NOT APPLY.

A mere enumeration of the employments will suffice. There are seven such employments :—

- (1) *Service in the Naval or Military forces of the Crown.*
- (2) *Service in any Police or Constabulary force.*
- (3) *Service as an outworker*, an outworker being any person to whom materials or articles are given out by the employer to be worked upon at home, or in some place not under the control of the employer.
- (4) *The employment of any person who works otherwise than by manual labour and receives more than £250 a year.*
- (5) *The employment of persons casually when not for the purposes of the employer's trade or business.*
- (6) *The employment of members of the crew of any fishing vessel who are remunerated by a share of the earnings of such vessel.*
- (7) *The employment of members of the employer's family if dwelling in his house.* This applies to the following relatives only, namely :—

Wife, Husband. Father, Mother. Grandfather, Grandmother. Stepfather, Stepmother. Child, Grandchild, Stepchild. Brother, Sister. Half-brother, Half-sister.

To the persons who are in any of the seven employments set out above the 1906 Act has no application whatever. Their remedy, so far as they have one, must be taken independently

of the Act. It will be, as seen in the previous chapter, either under the Common Law or under some statute applicable to the particular case. We now pass to group (b).

WHERE EMPLOYER AND WORKMEN HAVE CONTRACTED-OUT OF
THE PROVISIONS OF THE ACT.

We have seen it frequently stated that there can be no contracting-out under the Act, but this is inaccurate. Workmen and employers can contract themselves out of the Act, but *only upon conditions*. That cases of such contracting-out will be few and far between is certainly true, but there is power to contract-out in one way, and in one way alone. If a scheme of compensation, benefit, or insurance, certified by the Registrar of Friendly Societies, exists, the employer can if he so desires specifically contract with the workman that the provisions of such a scheme shall be substituted for the provisions of the Act. But let it be noted that the scheme must be certified by the Registrar, and there must be a specific contract between employer and workman to accept the scheme. The mere existence of a certified scheme will not alone suffice to free an employer from liability under the Act. Before a certificate will be issued for any scheme a number of stringent conditions must be satisfied. These are imposed in the interests of the workmen. The principal of such conditions are:—

- (1) The views of the employer and of the workmen must be ascertained.
- (2) The benefits under the scheme must be at least equal to those under the Act.
- (3) If the workmen have to contribute to the funds of the scheme there must be benefits equal to such contributions, in addition to the benefits equal to those of the Act.

- (4) It must be ascertained by ballot that a majority of the workmen to whom the scheme is applicable are in its favour.
- (5) The workmen must be at liberty to withdraw from the scheme.
- (6) There must be no obligation on the workmen to join the scheme.
- (7) The certificate is to be granted for a limited period of not less than five years, and is renewable with or without modifications.
- (8) The Registrar has power to hear and examine any complaint made on behalf of the workmen that the scheme is not being properly administered, or no longer satisfies the conditions, or that there is any other reason for revoking the certificate. If the justice of the complaint is established he can revoke the certificate until the cause of complaint is removed.

While upon the subject of these schemes, which are important in so far as they furnish the only means of contracting-out, the following points should be noticed. When a scheme ceases to be operative, either by reason of the expiration or revocation of the certificate, provision must be made for the discharge of existing liabilities. When this has been done the funds may be distributed between employer and workmen in the manner they may decide by agreement. If they cannot come to an understanding the Registrar has to settle the matter. Employers must be prepared to answer inquiries of the Registrar concerning such schemes, and to furnish him with copies of the accounts.

Under the Act of 1897 schemes similar to those we have been describing were permitted. Any such schemes, if they satisfy the requirements of the 1906 Act, may be re-certified by the Registrar. The new certificate must be obtained within six

months of the 1st of July 1907. Failing this, the schemes will cease to be operative. The Act contains a provision whereby any contract (other than one adopting a scheme under the 1897 Act) which a workman may have entered into before the 1st July 1907, and by which he relinquishes any rights to compensation for personal injury arising out of and in the course of his employment, shall come to an end automatically on the date the workman would have left the employment if he had given notice on the 1st July 1907.

We need not dwell further upon this matter. What we have said above is quite sufficient to show that the interests of the workmen are very carefully protected.

CHAPTER III.

WHEN THE CLAIM TO COMPENSATION IS BARRED.

Table of cases where compensation cannot be obtained—The difference between the groups.

Where the disablement is too slight—Disablement must be for at least a week—Meaning of this discussed.

Serious and wilful misconduct of workman—In what does this consist.

Proceedings not taken in time :—

- (a) The notice of the accident—To be given as soon as possible—How it is served—What it must contain—Its form.
- (b) *The claim for compensation*—To be made within six months—What it must contain.

In this chapter we will continue and conclude our examination of the preliminary matters dealing with the second group of cases, in which compensation cannot be obtained under the 1906 Act. To preserve the continuity of the subject, and to exhibit it at a glance, we here tabulate all the cases—those we have dealt with in the previous chapters and those to be dealt with at present.

CASES WHERE COMPENSATION CANNOT BE OBTAINED UNDER THE 1906 Act.

I.	<i>Cases absolutely excluded</i> :— (1) Seven specified employments. (2) Contracting-out under certified schemes.
II.	<i>Cases in which the claim to compensation is barred</i> :— (1) Where the disablement is too slight. (2) Where there is serious and wilful misconduct of the workman. (3) Where proceedings are not brought in time.

The three classes of cases under II. are our present topic, and the first remark we have to make regarding them is that they are more particularly defences which an employer can raise than the previous classes (those under I. above) we have considered. Of course, any of the classes, whether under I. or II., will serve as a defence, if the facts implied can be established, but the cases following under II. are in their very nature defences which will be raised, and under the old 1897 Act have been frequently raised. They have been before the Courts in a goodly array of litigation, but, nevertheless, it is not possible to accurately define their exact meaning or extent of application. A full discussion is out of the question for us in the present book, but we will endeavour to indicate in a practical manner what the most probable construction will be. We take them in the order given above.

(1) WHERE THE DISABLEMENT IS TOO SLIGHT.

No compensation can be obtained under the Act if the disablement due to the injury by accident does not prevent the workman earning full wages *for at least one week* at the work at which he was employed. The points to be noted are (a) that there must be an actual incapacity to work with the same competence at his old employment, and (b) this incapacity must be sufficient to prevent his work for a whole week being worth full wages. It may be worth something, or in a different employment he might earn more, or by an employer's good will he may receive full wages. But all these will not matter—except that they may influence the amount of compensation—as they do not establish or imply that the workman could *earn* his full wages for a week at his old employment. There is, of course, an ambiguity in the words used in the Act. We, however, believe that the true intention of the Act can be found by applying the following test. *If the workman can earn his full wages at his usual work and at the usual rate of pay on any day of the*

week he has not been incapacitated for at least a week. Suppose that a workman has suffered an injury on a Saturday and returns to work on the following Thursday, then being able to do his ordinary work in the ordinary way. Surely, using the words in their usual and correct meaning, one would say that he had been incapacitated for the Monday, Tuesday, and Wednesday, but not that he had been incapacitated from earning full wages for at least a week. And we hold this to be accurate, in spite of the fact that under the circumstances above supposed the workman would not have earned his full wages for the week. Confirmation of this view may be found in the provision of the Act that no compensation is to be paid for the first week if the disablement lasts for less than a fortnight. This we take to mean that, if at any time within a fortnight of the commencement of the incapacity (which need not necessarily be the date of the injury or accident) the workman is in such condition that he can work with his former efficiency at his old employment, the employer is not liable to pay compensation for the first week of that fortnight.

(2) WHERE THERE IS SERIOUS AND WILFUL MISCONDUCT OF THE
WORKMAN.

Here, again, we have words to which it is very difficult to attach a precise and definite meaning. If it can be shown—*i.e.*, of course, if the employer can establish that the injury by accident is due to the serious and wilful misconduct of the workman, the claim for compensation will be disallowed. To this there is an extremely important exception—namely, that the serious and wilful misconduct of a workman will not be a bar if the injury results in serious or permanent disablement or death. We would almost like to characterise this proviso as immoral. To keep down the poor rate by making employers responsible for the maintenance of their injured servants is an eminently desirable object, but could it not have been effected without

offering inducements to wanton recklessness? You punish the guilty workman if perchance he be but slightly injured, but you penalise the innocent employer if by the same chance the injury be serious! In the workman's own best interests a very strong case can be made out against this proviso. However, this is somewhat out of our province, which is to explain, not to criticise, the Act.

Three points must be carefully noticed with regard to the present subject—

- (a) *The misconduct must be serious.*
- (b) *The misconduct must be wilful.*
- (c) *The injury must arise directly out of the misconduct.*

Under the idea of serious misconduct there lies some notion that the conduct may directly and obviously give rise to consequences of a grave character—*e.g.*, danger or damage to life and limb, or even property. The surrounding circumstances are a material consideration, for it is clear that conduct which, under one set of conditions might be disastrous, could under altered conditions be a merely trivial matter. The breach of specific orders and regulations need not of itself be serious and wilful misconduct. Much will depend on what the orders and regulations are intended to effect. If primarily for the purpose of more efficiently carrying on the employer's business, as, *e.g.*, to ensure a larger production of goods, to obtain better finished articles, and so on, breach of them would probably not be held to be serious. But if the primary object of the orders and regulations had been to guard against injury to those engaged on the premises, or even for the protection of the premises and plant, the breach of such orders and regulations may more easily be held to amount to serious misconduct. The arbitrator before whom the claim for compensation comes has the by no means enviable task of deciding this as other questions of fact.

Besides being *serious* the misconduct must also be *wilful*. This implies a deliberate as opposed to a thoughtless action. The workman must have known that his conduct was wrong and likely to lead to injury, and must have acted in disregard of this knowledge. There is, therefore, involved a certain degree of recklessness—a don't-care-what-may-happen attitude. In cases of sudden emergency a workman may act wilfully and in disobedience to express orders, but if the emergency is sufficiently pressing it would most probably be held to excuse his action. Indeed we might say it will excuse the action, for it is difficult to see how misconduct could be established under such circumstances.

Upon the point that the injury must arise directly from the misconduct it is quite unnecessary to dwell, and we may pass to our next head.

(3) WHERE PROCEEDINGS ARE NOT BROUGHT IN TIME.

There are certain things which a workman must do if he desires to obtain compensation under the Act, which must be done within time limits—in one case indefinite, in the other definite. Failing this, and in the absence of reasonable excuse for the delay, he is debarred from taking any proceedings under the Act. These steps which must be taken in time are:—

- (a) To give notice of the accident.
- (b) To make his claim for compensation.

We will take them in this order.

NOTICE OF THE ACCIDENT.

This must be served upon the employer as soon as possible after the accident. Also it must be served before the workman has voluntarily left the employment in which he was injured—*i.e.*, has of his own choice ceased to be a servant of the

employer from whom he desires to obtain compensation. Service of this notice is effected by either—

- (1) Giving it to the employer ; or,
- (2) Delivering it at the employer's place of business or residence ; or,
- (3) Posting it by registered letter addressed to the employer at his business premises or residence.

The notice may be given either by the workman or by someone on his behalf. There is therefore the less excuse for delay. Three matters must be clearly stated in the notice, viz. :—

- (1) The name and address of the injured workman.
- (2) The cause of the injury. This is only stated in ordinary language—*i.e.*, medical details are not required—*e.g.*, “breaking of a window sash cord,” “bursting of a steam pipe,” “premature starting of a calender,” and so on.
- (3) The date of the accident.

The form of such a notice will be somewhat as follows :—

IN THE MATTER OF THE WORKMEN'S COMPENSATION ACT, 1906.

To *The Pickwick Company, Lim.*

Take notice that *Sam Weller*, of *19 Dicken's Row, Charleston*, was injured on the *first day of July nineteen hundred and seven* by an accident arising out of and in the course of his employment by you by *the bursting of a steam pipe*.

(Signed) *Sam Weller*.

Dated the *fourth day of July 1907*.

A workman injured by accident and desiring to obtain compensation should endeavour to have a notice with the above particulars duly filled in served on the employer at the earliest possible moment. The more regular proceedings are, the less risk is there of subsequent trouble and difficulty. If, however, the notice has not been given, or is inaccurate or defective, the workman may yet succeed in his claim. In such a case he must be able to prove that the fault was due to mistake, or absence from the United Kingdom, or some other reasonable cause. Even further, he will be excused if it appear that the only prejudice the employer has suffered can be removed by the serving of a notice, or an amended notice, and an adjournment of the proceedings.

THE CLAIM FOR COMPENSATION.

This must be made within **SIX MONTHS** of the accident, or, if death results, within the same period of the date of death. In its form it follows that of the notice of accident, but words are added giving the date of the service of the notice of accident and the amount of compensation claimed. If death has followed as a consequence of the accident the amount of compensation will be stated as a lump sum. In cases of disablement the amount of compensation is stated as the sum claimed as a weekly payment. A reasonable excuse will prevent the failure to make the claim for compensation within the prescribed six months from barring the workman's (or, in case of his death, the dependants'—we shall see later who these are—) right to take proceedings under the Act. Despite the fact that reasonable cause will be accepted in the case of failure either to make the claim for compensation or to give the notice of accident, the workman should carefully bear in mind that he is absolutely debarred from bringing any proceedings under the Act until this failure has been made good.

With this we have concluded our examination of the preliminary matters we desired to clear from our path. We have dealt with the cases where the Act is absolutely excluded, and the cases where there are conditions which, if present, bar the workman's claim. We pass from our consideration of these cases to the main body of our subject. Following the sequence—employer—workman—accident—injury—compensation—given above in our first chapter, we open with the question, Who is an employer?

CHAPTER IV.

WHO ARE EMPLOYERS ?

Meaning of the word employer—In the Act a narrower, and at the same time wider, use than in ordinary language — Who are not employers—Definition of who are employers:—Master of an apprentice is—An employer the person liable to pay compensation—Liability of third parties for damages.

Sub-contracting: Description of—Workmen's position under—In agricultural work.

Bankruptcy of employer : When compensation is a preferential debt —Effect of a contract of insurance—Winding-up for reconstruction or amalgamation.

Crown as a private employer : Claim lies against head of department.

It has already been stated (p. 1.) that if in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, the *employer* will be liable to pay compensation—subject, of course, to the provisions of the Act. It is, therefore, a most important point to determine clearly what the word “employer” means, or, to put it in a more practical form, who are the persons who are included under the term “employer” as used in the Act? In ordinary usage an employer is a person who engages another—the workman—to work for him. This meaning of the term “employer” underlies the general use of the word in the Act. But not every person who is an employer is included, and some persons whom one would not ordinarily call employers are included, in so far as they are made liable to pay compensation. Let us, for simplicity's sake, get rid of those persons who would be ordinarily designated employers, but yet are not such for the purposes of the Act.

In Chapter II. we gave a list of seven employments which are excluded from the Act's operation. It follows that the persons who stand in the relation of employers (as ordinarily used) to any others who are engaged in any of these seven excluded employments will not be liable to pay compensation under the Act. They may, of course, be liable independently of the Act, and equally they may be liable to persons, *e.g.*, their own domestic servants, whose services they use in employments other than the excluded seven. So far, then, we have determined *who are not* employers within the meaning of the Act. We turn now to the question of *who are*.

In the first place, the employer may be a single individual, or two or more individuals. When more than one individual the employer may be an *incorporated body*, as *e.g.*, a limited company, or an *unincorporated body*, as, *e.g.*, a private partnership. Further, if an employer has died, the liability to pay compensation falls upon his legal personal representatives, so far as these have property of the employer available. Subject, therefore, to what we have stated above, an employer is any person with whom another has entered into a contract of service, or for whom another works under any such contract. An apprenticeship deed is such a contract; and, further, the contract of service may be written, or verbal, or implied, from the circumstances of any particular case. Such an employer is the person against whom any claim for compensation under the Act may be brought. We say *may* be brought, not *must* be brought, for there are cases where the workman has an alternative between the employer and other persons; and, further, it will be remembered that his remedies, independently of the Act, are preserved. (See Chapter I.)

Sometimes the injury may arise under such circumstances as will create a legal liability in persons other than the employer to pay damages. For instance, suppose that an employer lend

or hire out the services of one of his workmen to a third party, and owing to such third party's negligence the workman is injured. In such a case the workman has an alternative of the kind alluded to above. He may bring an action for damages against the third party, *and* he may claim compensation under the Act from the employer. But he cannot recover both the damages and the compensation. If he has under the above circumstances—*i.e.*, the creation of a legal liability to pay damages in a third party—obtained compensation from the employer the latter is entitled to be indemnified by the third party, and the employer can enforce this right either by action, or, if both parties agree, by arbitration under the 1906 Act.

Closely connected with the foregoing is the question of SUB-CONTRACTING. The Act contains some specific provisions under this head, and the subject is of such importance that we will examine them in some detail.

SUB-CONTRACTING.

The Act describes or defines sub-contracting as *the making of a contract by any person (the principal) in the course of or for the purposes of his trade or business with any other person (the contractor) for the execution by or under the contractor of any work, or the part of any work, undertaken by the principal*. If an accident causing injury to a workman has occurred on, in, or about the premises on which the principal has undertaken the work, or, on, in or about premises under the control or management of the principal, then the injured workman may bring his claim for compensation *either* against the principal *or* against the contractor, if the latter is an employer within the meaning of the Act. If the principal has paid the compensation he is entitled to be indemnified by any person (which, of course, includes the contractor) who could have been made liable as an employer under the Act. In all cases the accident and resulting injury

must be such as to form the proper grounds for a claim of compensation under the Act. The total effect of the provisions is to give the workman a right to proceed against the principal, and so render the recovery of compensation more certain than if he were compelled to look solely to the contractor. In these cases the basis upon which the compensation is to be reckoned is the amount of wages the workman is receiving from his immediate employer. We take this to mean the person who at the time of the accident is actually and directly making use of his services.

An exception to the provisions just given must be noted, as in this the contractor is alone liable to pay compensation: This exception relates to agricultural work. Where in threshing, ploughing, or other agricultural work a contractor provides and uses machinery driven by mechanical power, the workmen employed by him for such work must claim for compensation for injury under the Act against such contractor. Here, again, their remedies outside the Act are not interfered with, but under the Act they have in the above circumstances no remedy against the principal.

A question which is most conveniently dealt with in this place is, What is the workman's position in the event of an employer's bankruptcy? The answer to this is found in various provisions of the Act which we will now consider.

BANKRUPTCY OF AN EMPLOYER.

Under the term "bankruptcy" must also be understood the winding-up of a limited company on account of inability to carry on its business. For a company to go into liquidation merely for the purpose of reconstruction or amalgamation with another concern is not to be included in its meaning, and in such case the provisions of the Act we are about to consider have no application. For the protection of injured workmen the Act provides that the amount of compensation, up to £100 in any

individual case, shall in the event of bankruptcy or winding-up be deemed a preferential debt. It will therefore be included among, and rank along with, the debts which by various statutes are given a priority over other claims upon bankrupt estates. It must be carefully noticed that this rule is subject to several conditions. The liability to pay the compensation must have accrued before the date of the receiving order, or the date of the winding-up order. If the compensation is in the form of weekly payments, it is to be taken as the sum for which these weekly payments could be redeemed under the provisions of the Act. (See p. 38.)

Another very important condition is that the priority above mentioned will not be given in any case in which the employer has insured against the liability under the Act, and whether this insurance cover him wholly or only in part. But to make up for this, the Act provides that in any case where such an insurance exists, and the employer becomes bankrupt, or makes a composition or arrangement with his creditors, or if a limited company commences to be wound up, then the persons (usually an insurance company) with whom the insurance has been effected are directly liable to the workman. This liability is, as might be expected, limited to the amount stipulated for in the policy of insurance—*i.e.*, the amount for which they have received premiums. If this amount be less than the sum which the workman is entitled to by way of compensation under the Act, he can prove for the balance in the bankruptcy in the ordinary way. The remark made above that none of these provisions apply in cases of winding-up for the sole purpose of reconstruction or amalgamation should be carefully noted.

We have left one small matter over, although its logical order would have been earlier in this chapter. It, however, only affects a comparatively small number of persons. We refer to—

THE CROWN AS A PRIVATE EMPLOYER.

In the list of excluded employments were the Naval and Military Services of the Crown. As opposed to these services the Crown in its private capacity has persons in its employment, and such persons are *workmen* within the meaning of the Act. These *workmen* must regard the head of that department of the Royal Household in which they are employed at the time of the accident as their employer. Accordingly an injured workman employed in a department of the Royal Household will claim against the head of that department, exactly as he would have done against any ordinary employer. The provisions of any schemes under any Superannuation Act need not be detailed in the present book.

Before closing this chapter we desire to reiterate that an employer can only contract-out of his liability under the Act by means of contracts by which his workmen individually accept the provisions of a certified scheme in lieu of the provisions of the Act.

CHAPTER V.

WHO ARE WORKMEN ?

Meaning of "workman" in the Act—Can be derived from definition of "employer"—Who are not workmen—Who are—The contract of service : Can be written, verbal, or implied—Services can be of any description—Who are *dependants*—Consideration of two classes of workmen postponed.

IN our last chapter we determined who were the persons liable to pay compensation under the Act. In the present chapter our task is to discover the persons who are entitled to bring claims for compensation. Any such person is covered by the term *workman* in the Act, irrespective of sex or employment. It is therefore an answer to the question, *Who is a workman for the purposes of the Act?* that we have to seek.

As we have already defined *employer*, we can say that any person who has entered into a contract of service, or works under such a contract, with an *employer*, is a workman. (It will be remembered that an apprenticeship deed is such a contract of service.) This is perfectly accurate, and if it be borne in mind who are employers, who can be workmen is a question easily answered. Nevertheless, we cannot leave it at this. A little more must be said to make the matter clear and comprehensible. First, as in the case of the term "employer," workman is used in the Act with both a wider and a narrower significance than in ordinary usage. It includes persons who in ordinary parlance we should not call workmen, *e.g.*, clerks and seamen and domestic servants, and it excludes persons

whom we usually call workmen, *e.g.*, a member of the employer's family living with him, and doing, let us say, bricklaying for the employer ; so that we must note that no person working at one of the seven excluded employments given on p. 6 can be a workman in the sense of a person entitled to claim compensation under the Act for injury by accident in any such employment. This, of course, followed from our definition of *employer*, but it was better to state the fact explicitly and independently.

Coming to the persons who are workmen, the following points are worthy of remark. The contract under which the services are rendered, or ought to be rendered, may be written or verbal or inferred, from the circumstances under which the work is done—*i.e.*, may be implied as opposed to expressed. As we have stated, an apprenticeship deed is such a contract. The services to be rendered may be of any description—manual, clerical, domestic, superintending, and so on. In brief, if there be a contract of service with others than those belonging to an excluded employment, the person who renders, or should render, such service is a workman, and is therefore under the appropriate circumstances entitled to claim compensation under the Act.

To provide for the case where the injury caused by accident results in the death of the workman, we must extend the meaning of the term *workman* to cover a deceased workman's legal personal representatives and his dependants. The legal personal representatives are, of course, his executor or administrator. His DEPENDANTS are members of his family who were wholly or partly dependent upon the workman's earnings at the time of the accident, or would have been so dependent but for the incapacity due to the injury caused by the accident. On p. 6 we gave a list of the persons who were considered to be members of the employer's family. The same list will serve to

enumerate the persons who are to be deemed members of the workman's family, but we must add to these

an illegitimate child,

an illegitimate grandchild,

and, in case the deceased workman had himself been an illegitimate child,

his parents or grandparents.

A dependant must be some one or other of the persons included in this extended list. They need not be living with the workman at the time of his death. It is sufficient to give them a claim to participate in the amount of compensation that a portion of the workmen's wages has gone (or but for the accident would have gone) to their support. In any individual case the questions as to whether an injured person was a workman, and who are actually the dependants of a deceased workman, are questions of fact. Failing an agreement, they will have to be answered in an arbitration under the Act.

There are two classes of workmen in whose favour the ordinary provisions of the Act are modified. These two classes consist of:—

- (1) Persons suffering from certain specified diseases, known as industrial diseases.
- (2) Seamen.

As the modifications introduced to meet the special requirements of these workmen are numerous and complicated, and just because they are modifications of the provisions ordinarily applicable, we will postpone our consideration of them till a later stage. In this way we can pursue an uninterrupted examination of the Act as generally available.

CHAPTER VI.

FOR WHAT IS COMPENSATION GIVEN ?

For what is compensation given?—The answer involves matters requiring explanation

Conditions necessary for compensation : Table of these—Three of them to be discussed :—

Personal injury : What it is—Disease may be.

Personal injury must be by accident : What is an accident—Analysis of—Definition of.

Accident arising out of and in the course of the employment : Meaning of this discussed—Imposes limits on the unexpectedness of the accident—Extended meaning in cases of emergency.

In the previous chapters we have discussed who is liable to pay compensation, and who can claim for compensation. Our present subject is, For what is compensation given? The answer can be put into comparatively few words. *Compensation is given for an incapacity caused by a personal injury by accident arising out of and in the course of the employment, if and when the incapacity prevents the earning of full wages for at least a week.* This answer is accurate, for it is almost in the very words of the Act ; it is fairly brief, and, until one looks more closely into it, clear. But when more carefully scrutinised questions begin to loom up. What is an accident? What is meant by “arising out of and in the course of the employment”? Then there is also “earning full wages for at least a week,” but this, luckily, we have already dealt with. (See Chapter III., p. 11.) Until we can put a really clear construction upon these words we cannot be said to know for what compensation is given.

We will endeavour in the following pages to set out these matters as plainly as may be. We must, however, give the warning that the subject is one abounding in difficulties, and extremely indefinite in all but a few guiding principles.

In the very first place, let us set out in the form of a table all the conditions which must co-exist before any claim for compensation can be sustained. These conditions are seven in number, and may be stated as follows :—

NECESSARY CONDITIONS FOR COMPENSATION.

- (1) The employment must be one falling within the Act—*i.e.*, it must not be one of the seven excluded employments.
- (2) There must be disablement for at least one week from earning full wages.
- (3) The disablement must be due to personal injury.
- (4) The personal injury must be by accident.
- (5) The accident must arise out of and in the course of the employment.
- (6) The proceedings to obtain compensation must be taken in time.
- (7) There must not have been serious and wilful misconduct on the injured workman's part. This, however, does not apply if the disablement is serious and permanent, or if death results.

Some of the above are already familiar to us, as in previous pages we have discussed those numbered 1, 2, 6, and 7. The remaining conditions, 3, 4, and 5, are the questions raised at the commencement of the present chapter. Tabulated as above will serve to show their relation to the compensation—*i.e.* it exhibits them as among the necessary conditions which give rise to a claim for compensation. We will now discuss these three conditions—those numbered 3, 4, and 5—in their order.

THE DISABLEMENT MUST BE DUE TO PERSONAL INJURY.

Very little need be said under this head. By personal injury is here meant some harm or damage to body or mind, or both. Disease, if it is *a personal injury by accident* within the meaning the Act gives to these words, is specifically included. If the disease be one of the enumerated industrial diseases (for which see p. 49), then the special provisions of the Act with regard to industrial diseases will apply.

THE PERSONAL INJURY MUST BE BY ACCIDENT.

Here we have to consider the question, *What is an accident?* In ordinary usage the meaning of the word accident oscillates between

- (1) An occurrence causing injury or damage to person or property, and
- (2) The injury or damage so caused.

In the Act the second use is never admissible. For the purposes of the Act an accident is always *an occurrence* causing injury to a workman. It is never the injury so caused. Of course, this is not a definition, but it is intended to emphasise the fact that an accident is an occurrence or event which causes or is accompanied by injury. Now, every event, of whatever description it may be, must occur—

- (1) At some definite time ;
- (2) At some definite place ; and,
- (3) In some definite manner.

It is clear that to anyone who knows all these three—the exact time, place, and manner of an event's occurring—the event itself will be expected, and could not possibly be regarded as accidental. But if any one of these three conditions is unknown,

then the event cannot be expected, so far as the unknown condition is concerned. There may be a general sense of expectancy—a foreboding that something may happen—but this is very different to the certainty conveyed by the exact knowledge of when, where, and how it will happen. It is this unexpectedness that gives the character of an accident to an event which causes injury.

We remarked before that the subject is a difficult one, and in pursuit of it we could be easily led into metaphysical quagmires. We, however, believe that the above is a sufficiently clear and accurate analysis, and upon it we would (perhaps foolhardily) base the following definition. *For the purposes of the Act an accident is an event which arises out of and in the course of the employment, which is unexpected as to the time, place, or manner of its occurrence, and is accompanied by injury to a workman.* The matter is capable of much more lengthy discussion. However, we leave it at this, merely remarking that our next head throws a little further light upon it.

THE ACCIDENT MUST ARISE OUT OF AND IN THE COURSE OF THE
EMPLOYMENT.

This condition is, on the face of it, twofold. It provides that the accident must arise—

- (a) *Out of the employment ; and,*
- (b) *In the course of the employment.*

As a consequence, the main ideas underlying its meaning are that there must be some direct connection between the accident and the employment, and that the accident must occur while the employment is being carried on. Linking this up with our definition of accident, we can see that this condition lessens the unexpectedness. By the words "*arising out of the employment*" a

limitation is imposed upon the *manner* in which the accident can occur. By the words "*in the course of the employment*" a limitation is imposed on the *time* and *place* of the accident's occurrence. But though the unexpectedness is made less, it is by no means done away with. We may, for instance, know that for a particular workman to have a claim for compensation he must be injured in a particular factory, but this does not tell us whereabouts in the factory the injury will befall him. We may know, further, that the accident must arise out of the employment, but we remain entirely ignorant of the nature of the connection between accident and employment. That is, we still remain ignorant of the exact *where* and *how*—and, similarly, of the exact *when*—of the accident's happening. It follows, then, that the unexpectedness which we have assigned as the characteristic of an accident is not disturbed. All that is done is to lay down limits. If the accident occurs within these limits it is available to support a claim for compensation under the Act. If it occurs outside these limits it is not so available.

Unfortunately the limits are extremely vague, and in very many cases it is a very difficult thing to say whether the accident is within them or not. The following are some broad generalisations. A direct connection must exist between the accident and the employment. In other words, the accident must be some event which unexpectedly occurs amidst, and so far disturbs, the ordinary sequence of the operations and processes which make up the employment. Further, it would seem that its cause must be found in some part of these operations or processes. Thus, if a workman in a feeble state of health is injured while doing work in the usual way, and under circumstances which, while involving accident, would not have entailed injury on a workman in good health, the cause of the injury is the feeble condition of health. If in any case this can be clearly

established, the workman could not successfully claim for compensation.

We have already several times remarked that the accident must occur while the employment is being carried on—*i.e.*, on the place where and during the time when the workman is fulfilling his contract of service. A workman injured on his way to or from his work has ordinarily no good claim under the Act. If, however, the employer provides and controls the means of access, and for his own purposes invites his workmen to use such means, a claim for compensation may be sustained.

The conditions which we have been considering, and which limit the time, place, and manner of an accident's occurrence, are given a very wide extension of meaning under certain circumstances. These circumstances exist when the workman is injured by accident while acting upon a sudden emergency. If his action is intended or directed to save life or limb or property from suddenly threatened damage it would in all cases be held to come within the scope of his employment, although really he did something quite other than his usual work. Of course, he must act on a sudden emergency which arises while he is carrying out his usual employment. That is, *the accident must arise in the course of the employment*, but *it need not arise out of the employment*.

There must be nothing in the shape of officious intermeddling—there must be, we believe, some real and apparent danger arising upon an emergency. In the words of the old saying, "Let a cobbler stick to his last," but, nevertheless, no Court would penalise a workman who, acting on an emergency, from feelings of humanity, or in the laudable desire to prevent loss to his employers, was injured by an accident, even though his action were outside the exact scope of his employment.

CHAPTER VII.

THE AMOUNT OF THE COMPENSATION.

What amount of compensation is payable—Table of the cases.

Average weekly earnings : How calculated—Incidental expenses—Concurrent contracts—Incapacity only partial—Payments made by employer during the incapacity.

How compensation money is dealt with:—

(a) When to dependants : Paid into Court—Invested—Interests of dependants settled—Varying such settlement.

(b) When weekly payments : Redemption of—Review of.

Workman leaving United Kingdom—Compensation money protected for workman's benefit.

WE have now arrived at the point where we must consider the questions—

What sums are payable by way of compensation?

*In what way are such sums calculated?

How is the right to them established?

The last question is one of procedure, which depends upon the detailed provisions of Orders and Rules of Court. Into these details we cannot enter, but in the next chapter we will give some of the general provisions upon which they will be based. In the present chapter we will confine ourselves to the other questions raised above.

WHAT SUMS ARE PAYABLE BY WAY OF COMPENSATION?

The simplest way of exhibiting these sums is to put them into a table. In this way they stand out clearly, and are ready for immediate reference. Of course, it will be understood that the sums mentioned in the table are (unless they are the minimum

amounts recoverable) the maximum. In awarding the compensation the arbitrator may give a sum appreciably less than the maximum amount, in accordance with the principle which will be stated later in this chapter. Further, the weekly payments are continued throughout the period of incapacity, but are subject to alteration upon review, or in cases of total incapacity to redemption. Of these matters also further details will be found on a subsequent page.

THE AMOUNT OF COMPENSATION.

I.	Death of a workman leaving dependants wholly dependent on his earnings.	<p>(a) If in the same employment for the three years previous to the accident a sum equal to the earnings for those three years.</p> <p>(b) If in the same employment for less than three years, a sum equal to 156 times the average weekly earnings for the period of the employment.</p> <p>Minimum £150. Maximum £300. Previous payments for compensation to be deducted.</p>
II.	Death of a workman leaving only dependants partly dependent.	Same as in No. I., or such smaller sum as may be considered reasonable and proportionate to the injury (loss of support) suffered by the dependants.
III.	Death of workman leaving no dependants.	Reasonable expenses of medical attendance and burial not to exceed £10.
IV.	Total or partial incapacity for work.	<p>(a) If in the same employment for the 12 months previous to the accident, a weekly payment of not more than half the average weekly earnings for those 12 months.</p> <p>(b) If in the same employment for less than 12 months previous to the accident, a weekly payment of not more than half the average weekly earnings for that period of less than 12 months.</p> <p>No weekly payment to exceed £1. If the incapacity lasts less than two weeks no compensation is payable for the first of such weeks.</p>
V.	Total incapacity of person under 21 years of age.	Same as in IV., but if the average weekly earnings are less than £1, then a weekly payment equal to such average weekly earnings, but not to exceed 10/- in any case.

Although the above table is the most useful method of showing the sums payable by way of compensation in the various cases, we cannot leave the matter without further explanation. The notes which follow should be carefully dwelt on, and must be read into the table whenever this is consulted as to the compensation recoverable in any actual case.

AVERAGE WEEKLY EARNINGS.

By this is meant the average rate per week at which the workman was remunerated. If the workman has been working for the same employer for the twelve months previous to the accident this average is simply calculated by dividing the whole of his earnings during such twelve months by 52. If the period be less than twelve months, then his earnings for such smaller period must be divided by the actual number of weeks in this period. In some cases, however, the workman's period of service may have been too short to allow of an average being properly taken, or his employment too casual. In such cases his average weekly earnings are obtained by having regard to what other workmen of the same employer, doing the same work that the injured workman was employed on at the time of the accident, have earned during the twelve months previous to the accident. If there are no such workmen, then regard may be had to the earnings of workmen doing the same work as above in the same district.

In calculating the average weekly earnings no notice must be taken of any sums paid to the workman by way of incidental expenses and so on. All such payments must be excluded. Cases arise where a workman is under contracts of service to different employers at the same time. Under these he works now for one employer and at another time for another employer. In such a case the earnings under all such contracts are lumped together, and treated as the earnings under the employer in

whose service the workman met with the accident. This is, of course, subject to the twelve months' rule as any other case.

Except in the case No. V. of our table, half the average weekly earnings is the maximum amount of the compensation which is payable where incapacity results from the injury. And this maximum is limited to not more than £1 per week. The amount actually awarded in any individual instance may be less than the maximum, as is, indeed, implied by using this term. Where the incapacity is only partial the workman obviously is capable of earning something, and the award will take into consideration what this something is. It is indeed specifically provided in the Act that the amount of compensation must never exceed the difference between the average weekly earnings before the accident and the average weekly earnings the workman could make in a suitable employment after the accident. Further, in determining the amount of any weekly payment, any payments or allowances, or other benefits which the workman has received during the period of his incapacity from the employer, must be taken into consideration.

The idea which underlies all these rules, and which will govern an arbitrator's decision, is *that compensation is awarded to a workman for the incapacity to work*. It is not intended to supply either damages or a solatium. The amount of pain and suffering entailed by the injury are taken into account only so far as they prevent the earning of wages. To put the matter briefly, *the extent to which the power of working is impaired is the measure of the compensation*.

HOW THE COMPENSATION MONEY IS DEALT WITH.

Under this head we will here deal with various matters, all so closely related to the foregoing that this place is the most suitable for their statement. We have treated of the amount of the

compensation, and we turn now to the consideration of how this amount is handled, whether on the employer's or workman's behalf.

The compensation payable to dependants is to be paid into Court, and is subject to investment, as the Court may direct, for the benefit of the dependants. The respective interests of the dependants in the amount awarded will be settled by the arbitrator's award, or order of the Court. Dependants partly dependent may share along with those who are wholly dependent. Where there are no dependants the sum awarded as compensation can be paid directly to the legal personal representative of the deceased workman, or, if there is no such representative, to the person responsible for the payment of the expenses of medical attendance and burial.

When an award or order has been made settling the various interests of the dependants, and circumstances arise which make it desirable that these interests should be readjusted, an application can be made to the Court to vary the award or order so as to remove any injustice, or otherwise to meet the altered circumstances of the case. The neglect of children by a widow of a deceased workman would be an example of a case in which the Court would act as above. In investing the compensation money the Court may direct investment in the Post Office Savings Bank. If this be done, any person having an interest in such invested money may nevertheless open an account in the Post Office Savings Bank, or any other savings bank. The penalties imposed upon a person for having two accounts in one bank, or accounts in different banks, will not apply.

We have now to consider the different ways in which weekly payments may be dealt with, having said sufficient of the compensation money payable to dependants.

REDEMPTION OF WEEKLY PAYMENTS.

When a workman totally incapacitated for work has received the weekly payments of his compensation for six months, the employer may apply to the Court for an order enabling him to redeem the weekly payments for a lump sum. The sum fixed must be such that it will be sufficient to purchase an immediate life annuity, from the National Debt Commissioners, through the Post Office Savings Bank, equal to three-quarters of the annual value of the weekly payments.

If the incapacity is partial the weekly payments may be redeemed for a sum to be settled by an arbitrator or the Court. The sum paid by way of redemption is not necessarily handed over to the workman. It may, and probably will, be directed to be invested or otherwise applied for the workman's benefit.

Apart from the above provisions, the employer and workman may come to an agreement as to the amount of the redemption money. In this case the workman is fully protected by the fact that a memorandum of any such agreement must be filed with the Registrar of the Court. The Registrar has power to refuse to register any memorandum if there is any information before him which leads him to believe that the agreement is in any way unfair, or has been unfairly procured. The Court also has power within six months of the date upon which any memorandum has been registered to order it to be removed, on proof that the agreement was obtained by fraud or undue influence. Employers should note that so long as the memorandum of the agreement is not registered they remain liable to pay the compensation, just as if no agreement existed. But in such a case an account will be taken of any moneys paid under the agreement.

REVIEW OF WEEKLY PAYMENTS.

Besides the power to redeem weekly payments, the Act provides for a review of them either on the employer's or the workman's behalf. Upon such a review the payments may be altered in any way—increased, decreased, or even stopped. The maximum amounts, as shown in the table, p. 34, must not be overstepped on any increase. Failing agreement between employer and workman, the matter will have to go before an arbitrator.

If the review takes place of the weekly payments to a workman who was under twenty-one years of age at the time of the accident, the payment may be increased up to half the amount the workman would probably have been able to earn at the time of the review had he not been injured. Allied to the above is the case in which a workman in receipt of a weekly payment leaves the United Kingdom. Under such circumstances the weekly payments will cease to be payable, unless a medical referee (see p. 34) certifies that the incapacity is likely to be permanent. In this case the workman must be prepared every quarter to prove his identity and the continuance of the incapacity, and he will then be entitled to receive a sum equal to the weekly payments of the preceding quarter.

The last matter we have to mention in this chapter is a further provision for the workman's protection. Any sums payable by way of compensation must be paid directly to the workman, and upon his receipt. He can do nothing to give anyone a charge upon or a right to such compensation money before it reaches his hands, not even in the case of creditors. Nor can any claim be set off against it. In this case, as in many others, the Act seeks to secure the workman against the consequences of his folly, or want of foresight. Employers may therefore perhaps regard the necessary expense of insuring against their liabilities under the Act as counterbalanced by a saving of poor rates.

CHAPTER VIII.

HOW COMPENSATION IS OBTAINED.

Subject of this chapter is procedure.

Methods by which questions under the Act are settled: (1) Agreement; (2) Arbitration: Four cases of arbitration—Appeal on questions of law.

Medical examination: Workman must submit to.

Medical referees: Who are—What are their duties.

What Courts have jurisdiction—Costs of proceedings—The procedure in a normal case: Outline of—Registering memorandum of decided questions.

In this chapter we have for our subject the way in which compensation is obtained under the 1906 Act. This is a question of procedure, and it is quite outside the scope of the present work to go into the details. It must suffice to give an outline which may serve to show the guiding principles and main rules which will be followed.

METHODS BY WHICH QUESTIONS UNDER THE ACT ARE SETTLED.

In the very first place we must note that practically every question which can arise under the Act is to be settled by ARBITRATION, unless the parties—the employer and the workman, or his legal personal representatives or dependants—can come to an agreement between themselves. It must, then, be understood that though we do not specially mention it, and only refer to arbitration, yet such an agreement might have been made if the parties had been able to come to terms. The methods which can be employed for settling questions arising

under the Act, and therefore for determining the liability to pay compensation to whom it is payable, and the amount to be paid, are :—

(1) AGREEMENT BETWEEN THE PARTIES.

(2) ARBITRATION—

(a) By a committee, if such exist, representative of the employer and his workmen, with power to settle matters under the Act.

An objection in writing before the committee meet to consider the matter, made by either employer or workman, will oust the committee's jurisdiction. In this case, as also (1) if the committee itself refers the matter, or (2) fails to settle the matter within six months of the date of the claim, it must be settled by—

(b) A single arbitrator agreed on by the parties ; or,

(c) A Judge of the County Court ; or,

(d) An arbitrator appointed by such a Judge.

Speaking generally, the proceedings are very closely similar to those in an ordinary County Court action. The provisions of the Arbitration Act, 1889, do not apply, and the decision of the arbitrator or the committee is final, unless a question of law be submitted to the Judge. In such case his decision, and any order he may make if the matter comes before him in the first instance, is final, subject to an appeal to the Court of Appeal. In other words, questions of fact are settled once and for all by the person before whom the evidence is given, but questions of law are subject to appeal—*i.e.*, the decision of a higher judicial authority than the arbitrator may be invoked.

MEDICAL EXAMINATION AND MEDICAL REFEREES.

The first step in any proceeding is for the workman to give notice of the accident. We have already dealt with this (p. 14), and need only emphasise here that this notice should be given

at the very earliest opportunity. Once this step has been taken, we come to the questions which will be at once raised in every case: *How far is the injury due to the accident?* and *What is the extent of the injury?* Also, since the matter is most conveniently dealt with here, the important question *as to what from time to time is the condition of a workman who is receiving weekly payments?* Obviously the person who must answer these questions is a duly qualified medical man, and the workman must submit to an examination by such a person. He may select and pay one himself, or his employer may provide and pay one. If the workman refuses to be examined by a doctor provided and paid for by the employer, or put obstacles in the way so that such examination cannot be thoroughly made, he will be barred from taking any proceedings under the Act until he complies. Further, he will forfeit all right to any compensation for the period he refuses to be examined or hinders the examination. Where an examination has taken place the workman or the employer (as the case may be) must furnish the other, within six days of the examination, with a copy of the doctor's report. If they cannot come to an agreement on the report—*i.e.*, if both parties do not accept or compromise on the doctor's findings—they must apply to the Registrar of a County Court, and he may refer the matter to a medical referee. A fee of not more than one pound must be paid on such application. The medical referee here mentioned is one of a number of legally qualified medical practitioners appointed by the Secretary of State. They act, as might be inferred from the foregoing, as arbitrators to decide on matters peculiarly within their special knowledge as medical men. So the Act provides that, in addition to their employment as above, a Judge of the County Court may summon a medical referee to sit with him as a medical assessor, and any arbitrator, or committee, or Judge, may submit matters arising before him, which require a special medical opinion, to a medical referee for his report. In the

interests of justice it is provided that a medical referee who has been employed as a medical practitioner in connection with any case by the employer or workman, or any insurance company interested, shall not act as a medical referee in that case.

COURTS AND COSTS.

The Courts which have to deal with matters relating to, or arising out of, proceedings for compensation under the Act are the County Courts, subject, of course, to the right of appeal to the Appeal Court on questions of law, and the particular Court which will have jurisdiction in any individual case will be the one of the district in which the parties to the case reside. Should they not reside in the same district, it is probable that the Court of the district in which the accident took place will be the one to exercise jurisdiction. Prior to the arbitrator's award no Court fees have to be paid, except the fee already mentioned in case of a reference to a medical referee, when no agreement has been come to between the parties as to the workman's condition. The costs of and incidental to the arbitration, and of any proceedings connected with it, are in the discretion of the committee, arbitrator, or Judge, as the case may be. The costs must not exceed a maximum to be fixed by rules of Court, and they are subject to taxation. Apart from such *awarded and taxed costs*, a solicitor, or other person acting on a workman's behalf, has no lien on the sum awarded for compensation, neither can he recover any costs, over and above the taxed costs, from the workman, nor deduct them from the compensation moneys. Employers should carefully note that all amounts paid by way of compensation should—unless they have to be paid into Court when the injury has resulted in the death of the workman—be paid to and in exchange for the receipt of the person entitled to them.

THE PROCEDURE.

The details of the procedure in all proceedings under the Act are prescribed by Orders and Rules of Court. These Orders and Rules will carry out the provisions of the Act which we have considered in this chapter. The first step in any proceedings is the giving of notice of the accident. This we dealt with on p. 15. The next step is the claim for compensation. This also we explained sufficiently on p. 16. We need only repeat here that this should certainly be served upon the employer within six months of the accident. These two steps taken, we have next (always following a normal case and assuming that no agreement has been come to between employer and workman) the *application for arbitration*, made by a form which sets out all the particulars of the accident and injury, and the amount of compensation claimed. The *appointment of the arbitrator*, the *fixing of the day for the arbitration*, and the *reply of the employer* to the particulars of the workman's claim follow in succession. Interspersed, however, are the necessary *notices of the various steps* to the parties interested. Any persons may be summoned as witnesses, and papers, books, and other documents ordered to be produced or inspected. These preliminaries accomplished, we come to the actual hearing of the case by the arbitrator—the *arbitration*. Perhaps the medical evidence is conflicting, and not such as the arbitrator can base a decision upon. In such case he may adjourn the proceedings after the appointment of a medical referee and reference of the question to him. Upon receipt of the report of such medical referee the arbitration is resumed. At the close of the hearing the arbitrator gives his award, and there may be the statement of a case on some question of law for the Judge's decision. Such in merest outline are the various steps in an ordinary claim for compensation, and they are inserted here merely to round off

our subject, and to give any of our readers who may find themselves parties to an arbitration sufficient information to obviate their being taken quite unawares.

FILING MEMORANDUM OF AGREEMENT, ETC.

There is one matter to which we must here direct attention, as it is of very considerable importance. We touched upon it in reference to agreements between employers and workmen as to the amount of compensation to be paid. We allude to the registering of a memorandum with the County Court Registrar. Putting the matter very briefly, it is incumbent upon an employer to have a memorandum registered whenever he has made an agreement—

(1) *In redemption of weekly payments.*

(2) *As to the amount of compensation payable to dependants.* If he fails to do this, and cannot show that the failure to register was due to something other than his neglect or default, his liability to pay compensation remains unaltered in any way by any such agreement. Such a registered memorandum is also necessary where *any matter*—e.g., the amount of compensation, the varying of a weekly payment—is decided under the Act. This applies whether the decision is made by committee, or arbitrator, or agreement between the parties. Provision is made to prevent any memorandum which is disputed from being registered, and power resides in the Registrar to refuse to register any memorandum of an agreement which he considers unjust either as to terms or the manner in which it was obtained. Finally, the Judge has power to rectify the register so far as manifest errors are concerned, and, within six months after the registration, the Judge may order a memorandum to be removed from the register, if it is proved that the agreement was obtained by undue influence, fraud, or other improper means.

With the conclusion of this chapter we have completed our survey of the Act as applied to all ordinary employments. In the next two chapters we will consider the modifications introduced to meet the special requirements of those who follow the sea as a calling, and of those who are engaged in trades or occupations in which they are exposed to industrial diseases.

CHAPTER IX.

INDUSTRIAL DISEASES.

General provisions of the Act modified for: (1) Industrial diseases:

(2) Seamen—General remarks upon the modifications.

Industrial diseases: What are these—Table of and processes in which they are contracted — When is personal injury by accident — Employer's special defence against claim—The five principal modifications—Presumption of cause of disease—Rules where there have been different employers.

WE have now arrived, as stated at the end of the preceding chapter, at the point where we have to consider the special provisions of the Act with regard to two classes of employment, viz.:—

(1) *Those employments which are exposed to industrial diseases*, and, as such come within the purview of the Factory and Workshop Act, 1901; and,

(2) *The employment of those who follow the sea as a calling.*

ACT MODIFIED TO MEET SPECIAL REQUIREMENTS.

In both these classes it must be most carefully borne in mind that the special provisions of the Act regarding them are merely modifications of the usual provisions applicable to all ordinary employments. It has been noticed that the conditions of these classes of employment differed so widely from the conditions usually prevailing that some special treatment was necessary. This was apparently obvious to our legislators, but it seems a pity that they did not recognise another class of employment

—namely, domestic service—which, from its very nature, demanded separate treatment quite as imperatively as the others which have received it. However, of this later; at the moment we will confine ourselves to the two classes specified above.

Unless specifically altered by what will appear in this and the subsequent chapter, all that we have before written is applicable to these two classes of employment. The special provisions are nothing more than modifications, and they will only apply under the exact circumstances for which they are provided. For example, a workman engaged in an occupation where he is exposed to an industrial disease has his leg broken by accident. In this case he must claim compensation in identically the same way as any other workman similarly injured in any ordinary employment. For another instance, a seaman on board a cruiser or other war vessel has, let us say, some ribs broken by the snapping of a steel hawser. He cannot claim compensation under the Act, as he is a person in the naval service of the Crown—*i.e.*, belongs to one of the excluded classes. Instances could be indefinitely multiplied, but the foregoing are sufficient for our purpose. We desire to emphasise the point that, with regard to industrial diseases and seamen, the ordinary provisions of the Act fully apply, except so far as a modification is introduced. It will follow that, to know the exact position of any person connected with either of these two classes of employment, whether as an employer or a workman within the meaning of the Act, it will be necessary to read into the remainder of the Act the special provisions as to the employments. Or, putting the same thing in another way, the present and succeeding chapter of this book must be read into the preceding chapters to really understand who is liable to pay compensation—*i.e.*, who is the employer—the conditions under which compensation can be claimed, and who can claim it—*i.e.*, who is the workman—in

the cases where persons suffering from an industrial disease or injured seamen are involved. In the present chapter we will confine our attention to the subject so far as concerns industrial diseases.

INDUSTRIAL DISEASES.

The diseases which are considered industrial diseases, and the processes in the carrying out of which they are contracted, are shown in the following tabulated form, which is practically one of the schedules attached to the Act. They are all diseases which must be certified by the district surgeon appointed under the Factory and Workshop Act, 1901, and concerning which rules and regulations are made under the same Act as to the suspension of a person suffering from any of them. In the following examination of the provisions of the Act with regard to these diseases, the surgeon to whom reference is made is always the district surgeon above alluded to, and, unless we specify otherwise, a *disease* must be taken to mean one of the diseases in the table, which we now give.

DISEASE.	PROCESS IN WHICH IT IS CONTRACTED.
Anthrax.	Handling of wool, hair, bristles, hides and skins.
Lead poisoning or its sequelæ— <i>i e.</i> , disease or illness following upon and arising out of lead poisoning.	Any process involving the use of lead or its preparations or compounds. <i>Note.</i> —In trades where persons engaged in certain processes have to be periodically examined, these processes are the only ones to be considered for the purposes of the Act.
Phosphorous poisoning or its sequelæ.	Any process involving the use of phosphorous or its preparations or compounds.
Mercury poisoning or its sequelæ.	Any process involving the use of mercury or its preparations or compounds.
Arsenic poisoning or its sequelæ.	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis (miners' disease).	Mining.

For a *disease* to be a personal injury by accident arising out of and in the course of the employment—*i.e.*, for it to enable the workman or his dependants to claim compensation under the Act—the following conditions must exist:—

- (1) *The disease* must be due to the nature of some employment carried on by the workman at some time within twelve months of the date of disablement or of the suspension on account of such disease, and whether his employment was under one or more employers.
- (2) The workman must have either—
 - (a) been certified by the surgeon as disabled by the disease from earning full wages at the work on which he was employed ; or
 - (b) been suspended from his usual employment on account of having contracted such a disease ; or
 - (c) died in consequence of such a disease.

If these two conditions—and it must be noticed that there are three alternatives grouped under No. 2, any one of which may be coupled with No. 1—exist, the workman may have a claim under the Act for compensation, or, if he has died as a consequence of the disease, then his dependants may have such a claim. We cannot say the workman has a right to compensation, for the employer has a defence which, if established, will prevent the recovery of compensation. This defence consists in proving that the workman at the time of entering the employment wilfully and falsely represented himself, in writing, as not having previously suffered from the disease. But, apart from this defence, and apart from serious and wilful misconduct on the part of the workman, compensation can be obtained. The steps to be taken are those we have considered in previous chapters, subject to the following modifications:—

- (1) The employer—that is, the person from whom the compensation is recoverable—is the employer who last employed the workman in the employment to which the disease is due, during the twelve months previous to the disablement or suspension brought about by the disease.
- (2) The disablement or suspension is to be taken as the happening of the accident.
- (3) The date of the accident (as defined in (2) above) is (a) the date upon which the surgeon certifies that the disablement commenced; or (b) the date of the certificate, if the surgeon cannot determine the commencement of the disablement; or (c) the date fixed by a medical referee, where reference has been made to him by either employer or workman when aggrieved by the action of the surgeon in giving or withholding a certificate, or in suspending or refusing to suspend a workman; or (d) the date of death, where a workman dies without having obtained a certificate, or is not at the time of his death in receipt of a weekly payment.
- (4) Notice of the accident (as defined in (2) above) is to be given to the employer as defined in (1) above. It must be noted that this notice can be given although the workman has voluntarily left the employment. This is contrary to the rule in the usual cases. (See p. 14.)
- (5) The amount of compensation recoverable is calculated in the ordinary way, but based upon the workman's earnings under the employer who has to pay the compensation.

The five modifications just set out are those of which the workman, or anyone acting on his behalf, must take special note.

The following is also a provision in the workman's favour. If the workman has at or immediately before the disablement or suspension been employed in any of the processes enumerated in the table given above, and has contracted the disease set opposite to any such process, the disease is, without further proof, attributed to the nature of the employment. This presumption can be rebutted—*i.e.*, upset—by the employer proving conclusively that the disease was not so caused. Moreover the presumption will not arise if the surgeon certifies that, in his opinion, the disease was not due to the nature of the employment.

The final matters we have to note in connection with industrial diseases under the Act are certain provisions for the protection or benefit of employers. We indicated above that the employer had a good defence to a claim if he could show that a workman had, in writing, wilfully and falsely declared that he had not previously suffered from the disease. Further, in the condition numbered (1) on p. 50, employment under one or more employers was mentioned. The provisions we have now to deal with link themselves on to this and to the definition of employer given on p. 51. Any employer against whom proceedings are brought may join any other employer as a party to the arbitration, if he alleges that the disease was contracted by the workman when under such other employer. If he can establish this allegation, then the employer so joined as a party has to pay the compensation. In cases where the disease is contracted by a gradual process, all the employers under whom the workman has worked at the employment, to the nature of which the disease is due, during the twelve months previous to his disablement or suspension, must contribute to the compensation. The workman will proceed against the employer as defined for the purposes of the provisions as to industrial diseases, and this employer will obtain the contributions from the other employers either by

agreement or arbitration. To enable the employer to take advantage of these provisions, the workman or his dependants must furnish the employer with the names and addresses of all the other employers he has worked for in the same employment during the previous twelve months. If the workman does not furnish this information, or it is not sufficient for the employer to act upon so as to make the others contribute their share of compensation, or one of them liable for the whole, then the workman will lose his right to any compensation upon the employer establishing that the disease was not contracted while the workman was in his employment.

We need not dwell further upon the subject of this chapter, except to draw attention to the fact already noted on p. 29, that a disease other than those mentioned as industrial diseases may be a personal injury giving rise to a claim for compensation under the Act.

CHAPTER X.

SEAMEN.

Who are not within the Act: Two classes.

Who are within the Act: Five classes.

Two conditions before seamen can claim.

Modifications in favour of seamen: Notice of accident—The case of an injured *master*—Time within which claim must be made—Limitation of amount to be paid—No deductions from compensation.

Evidence admitted in certain cases.

IN this chapter we have to deal with the modifications of the usual provisions of the Act, specially made to suit the requirements of seamen. We do not wish to repeat the general remarks made in the opening paragraphs of Chapter IX., but would advise our readers to turn back to them and note their applicability to the present subject. All we will say here, before plunging into the heart of the matter, is that, unless modified by what appears in this chapter, the Act applies in all its details to any case in which a seaman is injured and makes claim for compensation.

SEAMEN WHO ARE NOT WITHIN THE ACT.

The first point we have to note is that there are two classes of persons who follow the sea, and yet are absolutely excluded from the operation of the Act. We allude to our Class 1 on p. 6—namely, persons in the Naval Service of the Crown—and to Class 7—viz., members of the crew of a fishing vessel, who are

remunerated by shares in the profits or gross earnings of the working of such vessels. It should be noted that "vessel" includes any ship or boat, or any other kind of construction which is navigable on water. Persons falling within these classes, if injured, must seek their remedy outside the provisions of the 1906 Act. Having thus summarily disposed of them, we turn to seamen who are within the Act. They belong to the following classes :—

SEAMEN WITHIN THE ACT.

- (1) *Masters*.—A master is any person (except a pilot) having command or charge of a ship, and it must be remembered that a ship is any vessel navigable on water, and not propelled by oars.
- (2) *Seamen*.—A seaman is any person employed or engaged in any capacity on board any ship, who is not a master, a pilot, or a regularly indentured apprentice.
- (3) *Apprentices in the Sea Service* are boys who are bound by indenture, *i.e.*, by an apprenticeship deed duly registered, and, in the case of pauper apprentices, the boy must be at least twelve years of age.
- (4) *Apprentices in the Sea Fishing Service* are the same as No. 3 above, but in this case no boy under thirteen can be so apprenticed.
- (5) *Pilots*.—A pilot is any person who has the conduct of a ship to which he does not belong. The pilots included as workmen under the 1906 Act are such as follow their calling in the United Kingdom and the Isle of Man.

[In connection with pilots some very difficult questions may be raised under the provisions of Section 633 of the Merchant Shipping Act, 1894, but the matter is too technical for treatment here.]

Any person who belongs to any one of the above five classes will be able to avail himself of the 1906 Act, as modified in his favour by the provisions we have to consider below, if he fulfil the following conditions :—

- (1) He must be a workman in the sense we have already explained as belonging to this term for the purposes of the Act ; and
- (2) He must be a member of the crew of a British ship or vessel, which is either—
 - (a) Registered in the United Kingdom ; or
 - (b) Of which the owner, managing owner, or manager resides or has his principal place of business in the United Kingdom. The manager of a ship means the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner. The managing owner and the manager have to be registered.

As we have remarked, when these two conditions have been fulfilled by a person who is a member of one of the five enumerated classes, the Act applies with certain modifications.

MODIFICATIONS IN FAVOUR OF SEAMEN.

These modifications are intended to meet the special requirements of the employment. They are as follows :—

- (1) If the accident happened and the incapacity commenced on board the ship no notice of the accident is required. The claim for compensation may be served on the master. In other cases the notice of accident *and* the claim for compensation may be served on the master. There is no provision as to what an injured master

must do. It is carefully stated what he need not do. If a master has been injured his best course will be to give his notice and make his claim at the earliest reasonable opportunity of communicating with his employers. The reader should observe in connection with this modification the provision mentioned on p. 16, where an injured workman cannot serve the notice or make the claim in time, owing to absence from the United Kingdom.

- (2) If death results from the injury, the claim is to be made within six months after news of the death has reached the persons entitled to claim compensation.
- (3) If the ship has been lost with all hands, the claim must be brought within eighteen months of the date when she is deemed to have been so lost. If a ship has not been heard of for twelve months since departing from some port, she is deemed to have been lost with all hands immediately after the time she was last heard of, or at a later time, if a Court hold such later time probable.

The next two modifications turn upon the liability of an owner to bear the expense of providing necessary medical or surgical attendance, advice, and treatment for, and also the expenses of maintenance of, any master, seaman, or apprentice injured in the service of the ship. If such injured person dies, the owner has besides to bear the expense of the burial. This liability of the owner continues until the injured person is cured or dies, or is brought back to a port of the United Kingdom or a British possession, accordingly as he has been shipped in the United Kingdom or such British possession. With this premised, the two headings (4) and (5) which follow can be sufficiently understood.

- (4) In the case of death leaving no dependants, no compensation is payable, if the owner is liable to pay the expenses of burial.
- (5) In case of injury, no weekly payments are to be made by way of compensation for the period during which the owner has to bear the expenses of the injured person's maintenance.
- (6) As against the injured master, seaman, or apprentice, or their dependants, no deduction is to be made from the sum payable as compensation, although as against any third parties, from whom an owner might claim an indemnity, the damages can be limited to a proportion of an aggregate amount not exceeding £15 per ton of the ship's tonnage. (This applies to cases where the loss of life or injury to a person has taken place without any fault being imputable to the owners.)
- (7) A power is given to detain a ship under specified circumstances if the owners are liable to pay compensation. The vessel can be detained until either the compensation has been paid or security for it given. In the latter case, the person who gives the security is to be made the defendant in any proceedings to recover compensation.

Many of the matters we have dealt with in the present chapter are of a distinctly technical character. A really complete explanation of all the points involved would mean an extremely lengthy discussion, as so many details of shipping law are involved. However, it is hoped that enough has been said to bring out with reasonable clearness what classes of persons following the sea are within the Act, and the principal modifications for their benefit of the usual procedure.

In brief, the most important modifications relate to the notice of accident, the time within which the claim must be made, and certain limitations of the amount of compensation. The Act makes provision for the nature of the evidence which will be accepted in cases where an injured seaman (in a general sense) is discharged or left behind while abroad. In any such case the seaman should make depositions before a Judge, or magistrate, or consular officer, of the nature of the injury and the circumstances under which it occurred. These depositions, or certified copies of them, will be accepted by the Court before which the claim for compensation is heard.

CHAPTER XI.

FOR HOUSEHOLDERS.

How domestic servants are within the Act—There should have been special provision—A domestic servant is a "workman"—No need to define "domestic service"—Four classes of employment under householder—Consideration of liability in each class—Conditions of liability—Memorandum of any agreement to be registered—Concluding remarks and advice to insure.

THAT domestic servants are included among the persons who can claim compensation under the Workmen's Compensation Act, 1906, is a fact that has been very sufficiently advertised. It is, however, a fact of such far-reaching importance that it deserves a few paragraphs at our hands. While very readily admitting that domestic servants as a class are fully deserving of all legitimate protection, we must yet express a decided opinion that the haphazard inclusion of them in the present Act was a piece of careless and clumsy legislation. It had been recognised that seamen and those exposed to industrial disease could not be brought within the general provisions of the Act without considerable modification of those provisions. The reason for this was that the conditions of the employment of seamen and those exposed to industrial diseases were of a very special nature, necessitating exceptional treatment. But no such attention has been paid to the case of domestic servants. These are lumped together with all the employments to which the Act in general applies. Indeed, from end to end of the Act, they are not so much as mentioned. They are included because not

specifically excluded, and because they are workmen within the meaning of the Act. Now, we certainly maintain that the conditions of domestic service are of a very special, and indeed peculiar, nature, and that there was (and is) a very pressing necessity to define more narrowly and limit more strictly the terms which the Act should apply to it. In the employments we have just mentioned as having received special treatment under the Act there are various statutes which bring a certain degree of order and definitiveness into the terms and conditions of the contract of service. But in the case of domestic service all this is entirely vague and indefinite. The terms and conditions of the contract of service vary in each case, and vary to such degree as to leave merely a similarity in general outline. Only on the very surface is there any resemblance—once cross the threshold of any house, and you will find a special set of circumstances ruling. Had regard been paid to these considerations it would have been quite possible to so modify the Act as to make its application to domestic service a comparatively simple and straightforward matter. This has not been done, and as a consequence we have doubt and uncertainty, harassment and vexation. So far as in us lies we will in the following pages try to let a little light in upon these matters of vital importance to the householder, although we cannot hope to render clear and certain what the Act itself leaves blurred and undecided. But, even so, what we can state may serve in some degree as a notice-board warning of a dangerous bit of road ahead. This is after all something, though it be less than could be desired.

It is of no importance to our purpose to find an exact meaning of the phrases "domestic service" or "domestic servants." They do not occur in the Act. The householder's liability to pay compensation arises because he is the employer of others who work for him under contracts of service. Those who so

work may be the same persons who would be ordinarily called domestic servants, but they may also be other persons whom we should not so term. A cook, a housemaid, a butler, a footman, we should certainly call domestic servants; but would we so designate the gardener, the coachman, or the washerwoman? It is, then, obvious that we must try to find some classification of the persons with whom a householder as such enters into the relations of employer and servant, or, to use the word of the Act, workman.

The contract of service implies that work is, or ought to be, done for the employer, and we find that the persons who enter into such contracts of service fall into four classes. These four classes are:—

- (1) Persons whose employment is continuous, and who live in.
- (2) Persons whose employment is continuous, but who sleep out.
- (3) Persons whose employment is occasional and definite.
- (4) Persons whose employment is occasional and indefinite.

Of Class 1 a housemaid or a butler is a good example. Under Class 2 coachmen or gardeners can be cited. For Class 3 the washerwoman who comes every Monday, and for Class 4 the man to whom we may give some coppers for sweeping the path clear of snow; or, as another example, the charwoman summoned as extra help in the spring cleaning. Any person serving the householder-employer must fall into one or other of these four classes, and the question is, Can he be made to pay compensation in any case? With regard to the persons who may fall under Class 1 or 2, there is no doubt whatever. Under the appropriate circumstances the householder must pay compensation to any such person injured by accident. But with regard to persons coming within our Classes 3 or 4 there is room for doubt.

With regard to Class 3, persons whose employment is *occasional and definite*, we are inclined to say that they fall within the Act. Our reasons for so thinking are, briefly:—

- (a) There is a definite contract of service, under which work must be done for an employer.
- (b) The work is carried out in a place under the employer's control, with materials and utensils furnished by him, and in the manner he may direct. [That the "he" is often, or most frequently, "she"—viz., the employer's wife, daughter, or housekeeper—makes no difference.]
- (c) The employment is certainly occasional, but as it occurs at definitely known and pre-arranged times it cannot be deemed to be "casual." The full meaning of this will appear presently.

Under this heading, No 3, there is what may prove to be an exception—viz., such cases where the work is done occasionally and at definite intervals, but is performed by persons who are directly under the control of another employer. Of these, an illustration may be found in the case of window-cleaners, and so on. In all such cases the persons doing the work are in the service of their immediate employer, and it is with him that the householder really contracts. In all such cases the present writer is of opinion that no liability can attach to the householder under the Act.

With regard to persons in Class 4, whose employment is occasional and indefinite, we are inclined to think that they will not come within the Act. Their employment is *casual*. Now the Act provides that casual employment will not bring a person within the Act unless he is employed for the purposes of the employer's trade or business. Can we say that a householder, as such—that is, a person who is regarded simply

as employing others for his domestic convenience—is carrying on a trade or business? We should say, No! and on these grounds hold that persons falling under Class 4 cannot claim compensation under the Act.

We may therefore summarise our conclusions as follows:—A householder will under the appropriate circumstances be liable to pay compensation to any person who works for him continuously, or occasionally, and at definite times. He is not liable to pay compensation to those persons whom he employs casually. To this we must add that the Act does not permit liability to pay compensation to attach to a householder in respect of a person whom he employs, and who is a member of his family, living with him. Who are members of the employer's family for this purpose the reader can see on p. 6. Another case taken out of the Act is that in which the person employed does other than manual labour, and receives more than £250 per annum.

We have now to deal with the circumstances which give rise to the liability to pay compensation when once the relation of employer and workman—*i.e.*, the person under contract of service—is established. We cannot here discuss this matter in detail; this has already been done in the earlier chapters of the present book, and we would recommend a careful perusal of these chapters to any who desire to really understand the subject. Here we will merely set out the conditions which must exist before the liability to pay compensation can fall upon the householder.

- (1) There must be a personal injury due to accident.
- (2) The accident must arise out of and in the course of the employment.
- (3) The injury must disable the person injured so as to incapacitate him from earning full wages at his usual employment.
- (4) The incapacity must last for at least one week.

It should, then, be observed, this more particularly in the interests of the injured servant, that notice of the accident must be given to the employer as soon as may be after the accident, and before the servant of his or her own choice leaves the employment. A form of notice is given on p. 15. Further, within six months of the accident the formal claim for compensation must be made. Until these two conditions are fulfilled no proceedings to obtain compensation can be set on foot. Reasonable cause may excuse the omission to give notice of the accident, or the omission to make the claim within the six months.

Now, suppose that all the above conditions have been fulfilled, what happens next? If the employer—the householder, for present purposes—disputes his liability the matter will go to arbitration. If he admits liability, he may come to an agreement with the injured servant. It must, however, be remembered that a memorandum of such an agreement must be filed with the Registrar of the district County Court. Unless this is done the householder still remains liable under the Act. There are provisions by which the Registrar is empowered to refuse to file a memorandum of an unfair agreement. Again for details of all these matters we must refer the reader to the earlier chapters of the book. The synoptical table, p. xii., will give him a general view, and in the analytical contents of each chapter in the table of contents he will be enabled to find any particular point. The same remarks apply to the question of the amount of compensation which is payable.

We have now arrived at the point where we may offer a few concluding remarks by way of advice to the householder. They come last, but are by no means least in importance. The liabilities to which he is exposed are so considerable that, to the man of small means, they may spell ruin. Therefore on no

account, and whatever the sacrifice, must he fail to insure against the risks. For ordinary domestic servants the premium will range from 2s. 6d. to 5s. per annum, according to the risks covered. Male servants—gardeners, coachmen, and so on—range somewhat higher. Insure! and insure in a good company. Upon the many lady householders who are untrained in general business habits, let us impress this necessity. *They must insure, and that in a good company.* They must not be led away by the specious promises and arguments of the first canvasser who appears on their doorsteps. Further, before paying the premium, or signing any papers, let them fully understand what risks are being covered, and on what conditions. A policy of insurance does not constitute the easiest of reading to the uninitiated, so that it will be well for them to seek the assistance of someone who can explain the matter in ordinary language. The Act comes into operation on the 1st of July 1907, and they must see that they are covered by that date. Perhaps if we state that their liability may be upwards of £150, to be paid in a lump sum, or a weekly payment of anything up to £1, continuing, may be, for many years, the absolute necessity for following the advice to insure will be better realised.

CHAPTER XII.

THE TEXT OF THE WORKMEN'S COMPENSATION ACT 1906 WITH BRIEF ANNOTATIONS.

(NOTE.—The references p. followed by a figure are to the pages of the present book.)

ARRANGEMENT OF SECTIONS.*

Section.

1. Liability of employers to workmen for injuries.
 2. Time for taking proceedings.
 3. Contracting-out.
 4. Sub-contracting.
 5. Provision as to cases of bankruptcy of employer.
 6. Remedies both against employer and stranger.
 7. Application of Act to seamen.
 8. Application of Act to industrial diseases.
 9. Application to workmen in employment of Crown.
 10. Appointment and remuneration of medical referees and arbitrators.
 11. Detention of ships.
 12. Returns as to compensation.
 13. Definitions.
 14. Special provisions as to Scotland.
 15. Provisions as to existing contracts and schemes.
 16. Commencement and repeal.
 17. Short title.
- Schedules.

* The whole arrangement of the Act is clumsy, but one would really like to know how the subject matter of Section 11 came to be so far separated from that of Section 7. It will be observed that the headings of Sections 7, 8, 9, and 10 all commence with A, and are the only headings which do so. Yet this is scarcely an explanation !

Workmen's Compensation Act, 1906.

An Act to consolidate and amend the Law with respect to Compensation to Workmen for Injuries suffered in the course of their Employment.

[21st December 1906.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Liability of Employers to Workmen for Injuries.

1.—(1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the First Schedule to this Act.

[Every employment is not within the Act. See list of excluded employments in table, p. xii., and Chapter II. Also Sections 7 (2), 9 (1), and 13 in definition of "workman".

Personal injury. See p. 29.

Accident is discussed p. 29.

Arising out of and in the course of the employment. For discussion on meaning and construction of this, see p. 30.

Workman is defined Section 13, and see Chapter V.

Employer is defined Section 13, and see Chapter IV.

For the general conditions under which the liability to pay compensation accrues, see p. 28.]

(2) Provided that—

(a) The employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed:

[*Period of at least one week.* For discussion as to meaning of this, see p. 11.

Full wages. Consider effect of Schedule I. (2) (b), defining average weekly earnings in cases of concurrent contracts. This may be of importance under some such circumstances as the following:—A workman under contract to A. and B. concurrently is injured by accident

in A.'s employment in such fashion that he can still perform the work he has undertaken for A., but cannot efficiently perform the work B. requires.]

- (b) When the injury was caused by the personal negligence or wilful act of the employer, or of some person for whose act or default the employer is responsible, nothing in this Act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Act or take proceedings independently of this Act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this Act, and shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid :

[For remedies independently of the Act, see p. 3. No proceedings can be taken independently of the Act unless there has been some negligence or wilful act on the part of the employer, or on the part of some person for whom the employer is answerable.

Costs of unsuccessful proceedings taken independently of the Act, see Section 1 (4).]

- (c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

[*Serious and wilful misconduct.* For discussion of this, see p. 12.

It should be noted that this provision is, *in form*, a defence open to the employer; it is, *in fact*, worthless, and worse.]

(3) If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act (including any question as to whether the person injured is a workman to whom this Act applies), or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the First Schedule to this Act, be settled by arbitration, in accordance with the Second Schedule to this Act.

[Failing agreement, disputed questions are to be settled by arbitration. See Chapter VIII., and Schedule II. (1)-(8).

Costs of arbitration, Schedule II (7).]

(4) If, within the time hereinafter in this Act limited for taking proceedings, an action is brought to recover damages independently of this Act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Act, the action shall be dismissed; but the Court in which the action is tried shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Act. In any proceeding under this subsection, when the Court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this Act.

[*Within the time, &c.* Six months from the occurrence of the accident or death. See Section 2. For the time limit in the case of seamen, see p. 56, and Section 7 (1) (b) and (g). In the case of industrial diseases, Chapter IX., and Section 8 (1) (a). The date of the accident and the date of the commencement of the incapacity or disablement may be quite different.]

(5) Nothing in this Act shall affect any proceeding for a fine under the enactments relating to mines, factories, or workshops, or the application of any such fine.

Time for taking Proceedings.

2.—(1) Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death:

[For the general conditions which must be fulfilled before a claim can be sustained, see p. 28.

Voluntarily left employment, see p. 14; and in case of industrial disease, p. 51 and Section 8 (1) (e).]

Provided always that—

- (a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the United Kingdom, or other reasonable cause; and
 - (b) the failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the United Kingdom, or other reasonable cause.
- (2) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

[In case of seamen, service of notice is governed by Section 7 (1) (a), and see p. 56.]

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

Contracting Out.

3.—(1) If the Registrar of Friendly Societies, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favourable to the workmen and their dependants than the

corresponding scales contained in this Act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this Act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

[This section provides the only method of contracting-out of the liabilities imposed by the Act. For summary of the provisions of this section, see p. 7.

Note Section 15 (2), (3), and (4), and Schedule I. (21).]

(2) The Registrar may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4) If complaint is made to the Registrar of Friendly Societies by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in Subsection (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Registrar shall examine into the complaint, and, if satisfied that good cause exist for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may

be arranged between the employer and workmen, or as may be determined by the Registrar of Friendly Societies in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Registrar of Friendly Societies.

(7) The Chief Registrar of Friendly Societies shall include in his annual report the particulars of the proceedings of the Registrar under this Act.

(8) The Chief Registrar of Friendly Societies may make regulations for the purpose of carrying this section into effect.

Sub-Contracting.

4.—(1) Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed :

Provided that, where the contract relates to threshing, ploughing, or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he and he alone shall be liable under this Act to pay compensation to any workman employed by him on such work.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled by arbitration under this Act.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

[Compare Section 6, particularly (2).]

Workman's remedy against contractor is fully preserved by Section 4 (3). Consider case of loan or hire of workman's services, Section 13.

Agricultural work done by mechanical power is expressly excepted by the proviso at end of Section 4 (1).

The place where the accident may occur is limited by Section 4 (4).

For the section generally, see p. 20.]

Provision as to Cases of Bankruptcy of Employer.

5.—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy and the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however that insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation.

(3) There shall be included among the debts which under Section 1 of the Preferential Payments in Bankruptcy Act, 1888, and Section 4 of the Preferential Payments in Bankruptcy (Ireland) Act, 1889, are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount, not exceeding in any individual case one hundred

pounds, due in respect of any compensation the liability wherefor accrued before the date of the receiving order or the date of the commencement of the winding-up, and those Acts and the Preferential Payments in Bankruptcy Amendment Act, 1897, shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the First Schedule to this Act.

(4) In the case of the winding up of a company within the meaning of the Stannaries Act, 1887, such an amount as aforesaid, if the compensation is payable to a miner or the dependants of a miner, shall have the like priority as is conferred on wages of miners by Section 9 of that Act, and that section shall have effect accordingly.

(5) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as aforesaid.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

[For summary of the provisions of this section see p. 21.]

The effect of Subsections (3) and (5) is that in cases where insurance has been effected, but for an amount less than the sum awarded as compensation, the balance of such sum is an ordinary as opposed to a preferential debt.

The lump sum in redemption of weekly payments is governed by Schedule I. (17).]

Remedies both against Employer and Stranger.

6.—Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

- (1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act for such compensation, but shall not be entitled to recover both damages and compensation ; and

- (2) If the workman has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Act relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, by consent of the parties, by arbitration under this Act.

[This section should be considered in connection with Section 4 on sub-contracting, and also *cf.* case of loan or hire of workman's services in Section 13]

Application of Act to Seamen.

7.—(1) This Act shall apply to masters, seamen, and apprentices to the sea service and apprentices in the sea-fishing service, provided that such persons are workmen within the meaning of this Act, and are members of the crew of any ship registered in the United Kingdom, or of any other British ship or vessel of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in the United Kingdom, subject to the following modifications:—

[For extent and application of the Act to seamen see Chapter X., and for definitions of the persons included see p. 55 and Section 13.]

- (a) The notice of accident and the claim for compensation may, except where the person injured is the master, be served on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident:

[For notice generally, see Section 2 and p. 14. For notice by a master, see remarks p. 56.]

- (b) In the case of the death of the master, seaman, or apprentice, the claim for compensation shall be made within six months after news of the death has been received by the claimant:
- (c) Where an injured master, seaman, or apprentice is discharged or left behind in a British possession or in a foreign country, depositions respecting the circumstances and nature of the injury may be taken by any Judge or magistrate in the British

possession, and by any British consular officer in the foreign country, and if so taken shall be transmitted by the person by whom they are taken to the Board of Trade, and such depositions or certified copies thereof shall in any proceedings for enforcing the claim be admissible in evidence as provided by Sections 691 and 695 of the Merchant Shipping Act, 1894, and those sections shall apply accordingly :

[See p. 57, and Merchant Shipping Act, 1894, Sections 186-9.]

- (d) In the case of the death of a master, seaman, or apprentice, leaving no dependants, no compensation shall be payable, if the owner of the ship is, under the Merchant Shipping Act, 1894, liable to pay the expenses of burial :

[See p. 57, and Merchant Shipping Act, 1894, Section 207.]

- (e) The weekly payment shall not be payable in respect of the period during which the owner of the ship is under the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or otherwise, liable to defray the expenses of maintenance of the injured master, seaman, or apprentice :

[See p. 57, and Merchant Shipping Act, 1894, Section 207.]

- (f) Any sum payable by way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything in Section 503 of the Merchant Shipping Act, 1894 (which relates to the limitation of a shipowner's liability in certain cases of loss of life, injury, or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity under the section of this Act relating to remedies both against employer and stranger as if the indemnity were damages for loss of life or personal injury :

[*Section of this Act relating to remedies, &c.*, is Section 6.]

- (g) Subsections (2) and (3) of Section 174 of the Merchant Shipping Act, 1894 (which relates to the recovery of wages of seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by dependants of masters, seamen, and apprentices lost with their ship as they apply with respect to proceedings for the recovery of wages due to seamen and apprentices ; and proceedings for the recovery of compensation

shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost with all hands :

[See remarks, p. 57.]

(2) This Act shall not apply to such members of the crew of a fishing vessel as are remunerated by shares in the profits or the gross earnings of the working of such vessel.

[One of the excluded classes of Employment. See table, p. xii.

For definition of fishing vessel, see Merchant Shipping Act, 1894, Section 370. The effect of Section 372 of last-named Act should be considered.]

(3) This section shall extend to pilots to whom Part X. of the Merchant Shipping Act, 1894, applies, as if a pilot when employed on any such ship as aforesaid were a seaman and a member of the crew.

[For the definition of the pilots included under this subsection, see Merchant Shipping Act, 1894, Section 572, and also p. 55.

In connection with the provisions of this Section 7, the effect of Section 633 of the Merchant Shipping Act, 1894, should be considered.

In Section 11 provision is made for the detention of a vessel under specified conditions.]

Application of Act to Industrial Diseases.

8.—(1) Where—

- (i.) the certifying surgeon appointed under the Factory and Workshop Act, 1901, for the district in which a workman is employed certifies that the workman is suffering from a disease mentioned in the Third Schedule to this Act and is thereby disabled from earning full wages at the work at which he was employed ; or
- (ii.) a workman is, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, suspended from his usual employment on account of having contracted any such disease ; or

(iii.) the death of a workman is caused by any such disease ;

and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement or suspension, whether under one or

more employers, he or his dependants shall be entitled to compensation under this Act as if the disease or such suspension as aforesaid were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications:—

- (a) The disablement or suspension shall be treated as the happening of the accident;
- (b) If it is proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable;
- (c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due:

Provided that—

(i.) the workman or his dependants if so required shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation; and

(ii.) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable; and

(iii.) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is

recoverable such contributions as, in default of agreement, may be determined in the arbitration under this Act for settling the amount of the compensation ;

- (d) The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable ;
- (e) The employer to whom notice of the death, disablement, or suspension is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.
- (f) If an employer or a workman is aggrieved by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purposes of this section, the matter shall in accordance with regulations made by the Secretary of State be referred to a medical referee, whose decision shall be final.

(2) If the workman at or immediately before the date of the disablement or suspension was employed in any process mentioned in the second column of the Third Schedule to this Act, and the disease contracted is the disease in the first column of that schedule set opposite the description of the process, the disease, except where the certifying surgeon certifies that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

(3) The Secretary of State may make rules regulating the duties and fees of certifying and other surgeons (including dentists) under this section.

(4) For the purposes of this section the date of disablement shall be such date as the certifying surgeon certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given : Provided that—

- (a) Where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine :

(b) Where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, it shall be the date of death.

(5) In such cases, and subject to such conditions as the Secretary of State may direct, a medical practitioner appointed by the Secretary of State for the purpose shall have the powers and duties of a certifying surgeon under this section, and this section shall be construed accordingly.

(6) The Secretary of State may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modifications as may be contained in the order.

(7) Where, after inquiry held on the application of any employers or workmen engaged in any industry to which this section applies, it appears that a mutual trade insurance company or society for insuring against the risks under this section has been established for the industry, and that a majority of the employers engaged in that industry are insured against such risks in the company or society and that the company or society consents, the Secretary of State may, by Provisional Order, require all employers in that industry to insure in the company or society upon such terms and under such conditions and subject to such exceptions as may be set forth in the Order. Where such a company or society has been established, but is confined to employers in any particular locality or of any particular class, the Secretary of State may for the purposes of this provision treat the industry, as carried on by employers in that locality or of that class, as a separate industry.

(8) A Provisional Order made under this section shall be of no force whatever unless and until it is confirmed by Parliament, and if, while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against the Order, the Bill may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills, and any Act confirming any Provisional Order under this section may be repealed, altered, or amended by a Provisional Order made and confirmed in like manner.

(9) Any expenses incurred by the Secretary of State in respect of any such Order, Provisional Order, or confirming Bill shall be defrayed out of moneys provided by Parliament.

(10) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act.

[See Chapter IX.]

The provision of Subsection (10) is important, as it specifically provides that disease other than industrial disease may be a personal injury by accident.]

Application to Workmen in Employment of Crown.

9.—(1) This Act shall not apply to persons in the Naval or Military Service of the Crown, but otherwise shall apply to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person :

Provided that in the case of a person employed in the private service of the Crown, the head of that department of the Royal Household in which he was employed at the time of the accident shall be deemed to be his employer.

(2) The Treasury may, by warrant laid before Parliament modify for the purposes of this Act their warrant made under Section 1 of the Superannuation Act, 1887, and notwithstanding anything in that Act, or any such warrant, may frame schemes with a view to their being certified by the Registrar of Friendly Societies under this Act.

Appointment and Remuneration of Medical Referees and Arbitrators.

10.—(1) The Secretary of State may appoint such legally qualified medical practitioners to be medical referees for the purposes of this Act as he may, with the sanction of the Treasury, determine, and the remuneration of, and other expenses incurred by, medical referees under this Act shall, subject to regulations made by the Treasury, be paid out of moneys provided by Parliament.

Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as medical referee in that case.

(2) The remuneration of an arbitrator appointed by a Judge of County Courts under the Second Schedule to this Act shall be paid out of moneys provided by Parliament in accordance with regulations made by the Treasury.

[See Schedule I. (15).]

Medical referee as assessor, Schedule II. (5). See also Schedule II. (15).]

Detention of Ships.

11.—(1) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this Act, and at any time that ship is found in any port or river of England or Ireland, or within three miles of the coast thereof, a Judge of any Court of Record in England or Ireland may, upon its being shown to him by any person applying in accordance with the rules of the Court that the owners are probably liable as such to pay such compensation, and that none of the owners reside in the United Kingdom, issue an order directed to any officer of customs or other officer named by the Judge requiring him to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by the Judge, to abide the event of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) In any legal proceeding to recover such compensation, the person giving security shall be made defendant, and the production of the order of the Judge, made in relation to the security, shall be conclusive evidence of the liability of the defendant to the proceeding.

(3) Section 692 of the Merchant Shipping Act, 1894, shall apply to the detention of a ship under this Act as it applies to the detention of a ship under that Act, and, if the owner of a ship is a corporation, it shall for the purposes of this section be deemed to reside in the United Kingdom if it has an office in the United Kingdom at which service of writs can be effected.

Returns as to Compensation.

12.—(1) Every employer in any industry to which the Secretary of State may direct that this section shall apply shall, on or before such day in every year as the Secretary of State may direct, send to the Secretary of State a correct return specifying the number of injuries in respect of which compensation has been paid by him under this Act during the previous year, and the amount of such compensation, together with such other particulars as to the compensation as the Secretary of State may direct, and in default of complying with this section shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds.

(2) Any regulations made by the Secretary of State containing such directions as aforesaid shall be laid before both Houses of Parliament as soon as may be after they are made.

Definitions.

13.—In this Act, unless the context otherwise requires,—

“Employer” includes any body of persons corporate or unincorporate and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person ;

[As to who are employers, see Chapter IV.]

“Workman” does not include any person employed otherwise than by way of manual labour whose remuneration exceeds two hundred and fifty pounds a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade or business, or a member of a police force, or an outworker, or a member of the employer’s family dwelling in his house, but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing ;

[As to who are workmen, Chapter V. For list of employments to which the Act does not apply, see table, p. xii., and also Chapter II.]

Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable ;

"Dependants" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grand parent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grand parent so dependent upon his earnings, shall include such an illegitimate child and parent or grand parent respectively ;

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister ;

"Ship," "vessel," "seaman," and "port" have the same meanings as in the Merchant Shipping Act, 1894 ;

"Manager," in relation to a ship, means the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner ;

"Police force" means a police force to which the Police Act, 1890, or the Police (Scotland) Act, 1890, applies, the City of London Police Force, the Royal Irish Constabulary, and the Dublin Metropolitan Police Force ;

"Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles ;

The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this Act, be treated as the trade or business of the authority ;

"County Court," "Judge of the County Court," "Registrar of the County Court," "plaintiff," and "rules of Court," as respects Scotland, mean respectively Sheriff Court, Sheriff, Sheriff Clerk, pursuer, and act of sederunt.

Special Provisions as to Scotland.

14.—In Scotland, where a workman raises an action against his employer independently of this Act in respect of any injury caused by accident arising out of and in the course of the employment, the action, if raised in the Sheriff Court and concluding for damages under the Employers' Liability Act, 1880, or alternatively at common law or under the Employers' Liability Act, 1880, shall, notwithstanding anything contained in that Act, not be removed under that Act or otherwise to the Court of Session, nor shall it be appealed to that Court otherwise than by appeal on a question of law; and for the purposes of such appeal the provisions of the Second Schedule to this Act in regard to an appeal from the decision of the Sheriff on any question of law determined by him as arbitrator under this Act shall apply.

[See further provisions, Schedule II. (17).]

In the case of Ireland the provisions of Schedule II. (18) should be noted.]

Provisions as to Existing Contracts and Schemes.

15.—(1) Any contract (other than a contract substituting the provisions of a scheme certified under the Workmen's Compensation Act, 1897, for the provisions of that Act) existing at the commencement of this Act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this Act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this Act.

(2) Every scheme under the Workmen's Compensation Act, 1897, in force at the commencement of this Act shall, if re-certified by the Registrar of Friendly Societies, have effect as if it were a scheme under this Act.

[The reference is to Section 3.]

(3) The Registrar shall re-certify any such scheme if it is proved to his satisfaction that the scheme conforms, or has been so modified as to conform, with the provisions of this Act as to schemes.

(4) If any such scheme has not been so re-certified before the expiration of six months from the commencement of this Act, the certificate thereof shall be revoked.

Commencement and Repeal.

16.—(1) This Act shall come into operation on the first day of July nineteen hundred and seven, but, except so far as it relates to references to medical referees, and proceedings consequential thereon, shall not apply in any case where the accident happened before the commencement of this Act.

(2) The Workmen's Compensation Acts, 1897 and 1900, are hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this Act, except to the extent to which this Act applies to those cases.

[*Except to the extent, &c.*, refers to Section 16 (1) as to references to medical referees and proceedings consequent thereon. See p. 41.]

Short Title,

17.—This Act may be cited as the Workmen's Compensation Act, 1906.

SCHEDULES.*

FIRST SCHEDULE.

SCALE AND CONDITIONS OF COMPENSATION.

- (1) The amount of compensation under this Act shall be—

Amount of Compensation in case of Death. See Table, p. xii.

- (a) where death results from the injury—

(i.) if the workman leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one hundred and fifty pounds, whichever of those sums is the larger, but not exceeding in any case three hundred pounds, provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer;

(ii.) if the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration under this Act, to be reasonable and proportionate to the injury to the said dependants; and

(iii.) if he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding ten pounds;

* The headings to the Sections of the Schedules do not appear in the official copies of the Act, they have been added to facilitate reference.

Amount of Compensation in case of Incapacity.

- (b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed one pound :

Provided that—

- (a) if the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week ; and
- (b) as respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose average weekly earnings are less than twenty shillings, one hundred per cent. shall be substituted for fifty per cent. of his average weekly earnings, but the weekly payment shall in no case exceed ten shillings.

How "Average Weekly Earnings" are Calculated.

(2) For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed :—

- (a) average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district ;

- (b) where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident ;
- (c) employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause ;
- (d) where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

The Amount of the Weekly Payment depends upon the Extent of the Incapacity.

(3) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.

Medical Examination of Injured Workman. See (20) below.

(4) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceedings under this Act in relation to compensation, shall be suspended until such examination has taken place.

Compensation in case of Death to be Paid into Court.

(5) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into the County Court, and any sum so paid into Court shall, subject to rules of Court and the provisions of this schedule, be invested, applied, or otherwise dealt with by the Court in such manner as the Court in its discretion thinks fit for the benefit of the persons entitled thereto under this Act, and the receipt of the Registrar of the Court shall be a sufficient discharge in respect of the amount paid in :

Provided that, if so agreed, the payment in case of death shall, if the workman leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

Transfer of Money Paid into Court to another Court.

(6) Rules of Court may provide for the transfer of money paid into Court under this Act from one Court to another, whether or not the Court from whom it is to be transferred is in the same part of the United Kingdom as the Court to which it is to be transferred.

Payment to Person under Legal Disability.

(7) Where a weekly payment is payable under this Act to a person under any legal disability, a County Court may, on application being made in accordance with rules of Court, order that the weekly payment be paid during the disability into Court, and the provisions of this schedule with respect to sums required by this schedule to be paid into Court shall apply to sums paid into Court in pursuance of any such order.

How Dependants are Ascertained.—Total and Partial Dependants may Share in the Compensation.

(8) Any question as to who is a dependant shall, in default of agreement, be settled by arbitration under this Act, or, if not so settled before payment into Court under this schedule, shall be settled by the County Court, and the amount payable to each dependant shall be settled by arbitration under this Act, or, if not so settled before payment into Court under this schedule, by the County Court. Where there are both total and partial dependants nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

Power of Court to Vary Order or Award to Dependants.

(9) Where, on application being made in accordance with rules of Court, it appears to a County Court that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of the Court or an award as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any such dependant is to be invested, applied, or otherwise dealt with, ought to be varied, the Court may make such order for the variation of the former order or the award, as in the circumstances of the case the Court may think just.

Investment in Post Office Savings Bank.

(10) Any sum which under this schedule is ordered to be invested may be invested in whole or in part in the Post Office Savings Bank by the Registrar of the County Court in his name as Registrar.

Annuity may be Purchased.

(11) Any sum to be so invested may be invested in the purchase of an annuity from the National Debt Commissioners through the Post Office Savings Bank, or be accepted by the Postmaster-General as a deposit in the name of the Registrar as such, and the provisions of any statute or regulations respecting the limits of deposits in savings banks, and the declaration to be made by a depositor, shall not apply to such sums.

Payment out of Money Invested under (10) above.

(12) No part of any money invested in the name of the Registrar of any County Court in the Post Office Savings Bank under this Act shall be paid out, except upon authority addressed to the Postmaster-General by the Treasury or, subject to regulations of the Treasury, by the Judge or Registrar of the County Court.

Suspension of Penalties in favour of such Investments.

(13) Any person deriving any benefit from any moneys invested in a post office savings bank under the provisions of this Act may, nevertheless, open an account in a post office savings bank or in any other savings bank in his own name without being liable to any penalties imposed by any statute or regulations in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

Medical Examination of Workman in Receipt of a Weekly Payment.

See (20) below.

(14) Any workman receiving weekly payments under this Act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

Conditions of such Medical Examination.

(15) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph (14) of this schedule otherwise than in accordance with regulations made by the Secretary of State, or at more frequent intervals than may be prescribed by those regulations.

Failing Agreement as to Workman's Condition, Reference to a Medical Referee. See Schedule II. (13).

Where a workman has so submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the Registrar of a County Court, on application being made to the Court by both parties, may, on payment by the applicants of such fee not exceeding one pound as may be prescribed, refer the matter to a medical referee.

Certificate of Medical Referee.

The medical referee to whom the matter is so referred shall, in accordance with regulations made by the Secretary of State, give a certificate as to the condition of the workman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

*Failing Agreement Medical Referee to decide how far Incapacity
Due to Accident.*

Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this paragraph shall, subject to any regulations made by the Secretary of State, apply as if the question were a question as to the condition of the workman.

*Suspension of Right to take Proceedings or receive Compensation.
See (20) below.*

If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation, or, in the case of a workman in receipt of a weekly payment, his right to that weekly payment, shall be suspended until such examination has taken place.

Rules of Court may be made for prescribing the manner in which documents are to be furnished or served and applications made under this paragraph and the forms to be used for those purposes and, subject to the consent of the Treasury, as to the fee to be paid under this paragraph.

Review of Weekly Payments.

(16) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by arbitration under this Act :

Provided that where the workman was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding fifty per cent. of the weekly sum which the workman would probably have been earning at the date of the review if he had remained uninjured, but not in any case exceeding one pound.

Redemption of Weekly Payments after Six Months.

(17) Where any weekly payment has been continued for not less than six months, the liability therefor may, on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such an amount as, where the incapacity is permanent, would, if invested in the purchase of an immediate life annuity from the National Debt Commissioners through the Post Office Savings Bank, purchase an annuity for the workman equal to seventy-five per cent. of the annual value of the weekly payment, and as in any other case may be settled by arbitration under this Act, and such lump sum may be ordered by the committee or arbitrator or Judge of the County Court to be invested or otherwise applied for the benefit of the person entitled thereto: Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

Provision where Workman leaves the United Kingdom.

(18) If a workman receiving a weekly payment ceases to reside in the United Kingdom, he shall thereupon cease to be entitled to receive any weekly payment, unless the medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of Court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

Protection of Redemption Money.

(19) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

See (4), (14), and (15) above.

(20) Where under this schedule a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

Compensation under Certified Scheme.

(21) Where a scheme certified under this Act provides for payment of compensation by a friendly society, the provisions of the proviso to the first subsection of Section 8, Section 16, and Section 41 of the Friendly Societies Act, 1896, shall not apply to such society in respect of such scheme.

Irish Post Office Savings Banks.

(22) In the application of this Act to Ireland the provisions of the County Officers and Courts (Ireland) Act, 1877, with respect to money deposited in the Post Office Savings Bank under that Act shall apply to money invested in the Post Office Savings Bank under this Act.

SECOND SCHEDULE.

ARBITRATION, &C.

Arbitration by a Representative Committee.

(1) For the purpose of settling any matter which under this Act is to be settled by arbitration, if any committee, representative of an employer and his workmen, exists with power to settle matters under this Act in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of such committee, or be referred by them in their discretion to arbitration as hereinafter provided.

By Single Arbitrator or a Judge.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within six months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties or in the absence of agreement by the Judge of the County Court, according to the procedure prescribed by rules of Court.

Arbitrators Appointed by Judges.

(3) In England the matter, instead of being settled by the Judge of the County Court, may, if the Lord Chancellor so authorises, be settled according to the like procedure, by a single arbitrator appointed by that Judge, and the arbitrator so appointed shall, for the purposes of this Act, have all the powers of that Judge.

Arbitration Act does not Apply.—Appeals.

(4) The Arbitration Act, 1889, shall not apply to any arbitration under this Act; but a committee or an arbitrator may, if they or he think fit, submit any question of law for the decision of the Judge of the County

Court, and the decision of the Judge on any question of law, either on such submission, or in any case where he himself settles the matter under this Act, or where he gives any decision or makes any order under this Act, shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Court of Appeal; and the Judge of the County Court, or the arbitrator appointed by him, shall, for the purpose of proceedings under this Act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the County Court.

Medical Referee as Assessor.

(5) A Judge of County Courts may, if he thinks fit, summon a medical referee to sit with him as an assessor.

Appearance of Parties.

(6) Rules of Court may make provision for the appearance in any arbitration under this Act of any party by some other person.

Costs of the Arbitration.

(7) The costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the committee, arbitrator, or Judge of the County Court, subject as respects such Judge and an arbitrator appointed by him to rules of Court. The costs, whether before a committee or an arbitrator or in the County Court, shall not exceed the limit prescribed by rules of Court, and shall be taxed in manner prescribed by those rules and such taxation may be reviewed by the Judge of the County Court.

Appointment of a New Arbitrator.

(8) In the case of the death, or refusal or inability to act, of an arbitrator, the Judge of the County Court may, on the application of any party, appoint a new arbitrator.

Memorandum of all Matters Decided under the Act to be Registered.

(9) Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of Court, by the committee or arbitrator, or by any party inter-

ested, to the Registrar of the County Court who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a County Court judgment.

Conditions of such Registration and Power to Vary and Rectify.

Provided that—

- (a) no such memorandum shall be recorded before seven days after the despatch by the Registrar of notice to the parties interested; and
- (b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Act and the employer, in accordance with rules of Court, proves that the workman has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the Judge of the County Court, under the circumstances, may think just; and
- (c) the Judge of the County Court may at any time rectify the register; and
- (d) where it appears to the Registrar of the County Court, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the Judge who shall, in accordance with rules of Court, make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just; and
- (e) The Judge may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation

payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

Effect of Non-Registration of an Agreement to Redeem Weekly Payments.

(10) An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this Act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependants, if not so registered, shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

Which Court has Jurisdiction.

(11) Where any matter under this Act is to be done in a County Court, or by, to, or before the Judge or Registrar of a County Court, then, unless the contrary intention appear, the same shall, subject to rules of Court, be done in, or by, to, or before the Judge or Registrar of, the County Court of the district in which all the parties concerned reside, or if they reside in different districts the district prescribed by rules of Court, without prejudice to any transfer in manner provided by rules of Court.

The Act to be carried out under Rules of Court.

(12) The duty of a Judge of County Courts under this Act, or in England of an arbitrator appointed by him, shall, subject to rules of Court, be part of the duties of the County Court, and the officers of the Court shall act accordingly, and rules of Court may be made both for any purpose for which this Act authorises rules of Court to be made, and also generally for carrying into effect this Act so far as it affects the County Court, or an arbitrator appointed by the Judge of the County Court, and proceedings in the County Court or before any such

arbitrator, and such rules may, in England, be made by the five Judges of County Courts appointed for the making of rules under Section 164 of the County Courts Act, 1888, and when allowed by the Lord Chancellor, as provided by that section, shall have full effect without any further consent.

Court Fees.

(13) No Court fee, except such as may be prescribed under paragraph (15) of the First Schedule to this Act, shall be payable by any party in respect of any proceedings by or against a workman under this Act in the Court prior to the award.

Compensation (unless to be paid into Court) to be paid Directly to the Person Entitled to Same.—No lien for Costs upon excepted awarded Taxed Costs.

(14) Any sum awarded as compensation shall, unless paid into Court under this Act, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this Act shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the committee, the arbitrator, or the Judge of the County Court, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of Court.

Power to obtain Report of Medical Referee.

(15) Any committee, arbitrator, or Judge may, subject to regulations made by the Secretary of State and the Treasury, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

Special Powers may be given to Representative Committees.

(16) The Secretary of State may, by order, either unconditionally or subject to such conditions or modifications as he may think fit, confer on any committee representative of an employer and his workmen, as respects any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee,

all or any of the powers conferred by this Act exclusively on County Courts or Judges of County Courts, and may by the order provide how and to whom the compensation money is to be paid in cases where, but for the order, the money would be required to be paid into Court, and the order may exclude from the operation of provisoes (d) and (e) of paragraph (9) of this schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential, or supplemental provisions as may appear to the Secretary of State to be necessary or proper for the purposes of the order.

Application to Scotland.

(17) In the application of this schedule to Scotland—

(a) "County Court judgment" as used in paragraph (9) of this schedule means a recorded decree arbitral:

(b) Any application to the Sheriff as arbitrator shall be heard, tried, and determined summarily in the manner provided by Section 52 of the Sheriff Courts (Scotland) Act, 1876, save only that parties may be represented by any person authorised in writing to appear for them and subject to the declaration that it shall be competent to either party within the time and in accordance with the conditions prescribed by act of sederunt to require the sheriff to state a case on any question of law determined by him, and his decision thereon in such case may be submitted to either division of the Court of Session, who may hear and determine the same and remit to the sheriff with instruction as to the judgment to be pronounced, and an appeal shall lie from either of such divisions to the House of Lords.

(c) Paragraphs (3), (4), and (8) shall not apply.

Application to Ireland.

(18) In the application of this schedule to Ireland the expression "Judge of the County Court" shall include the recorder of any city or town, and an appeal shall lie from the Court of Appeal to the House of Lords.

THIRD SCHEDULE.

Industrial Diseases.

Description of Disease	Description of Process
Anthrax	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelæ ..	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis	Mining.

Where regulations or special rules made under any Act of Parliament for the protection of persons employed in any industry against the risk of contracting lead poisoning require some or all of the persons employed in certain processes specified in the regulations or special rules to be periodically examined by a certifying or other surgeon, then, in the application of this schedule to that industry, the expression "process" shall, unless the Secretary of State otherwise directs, include only the processes so specified.

1907.

Accountancy and Law Publications.

		Pub. Price NET
Accountant, The.	Weekly	-/6
"	Per annum post free, (U.K.) ...	24/-
"	do. do. Foreign ...	26/-
"	Binding Cases	2/6
"	File Cases	3/6
Accountants' Journal.	Monthly	-/9
"	Per annum (U.K.) ...	7/6
"	do. Foreign ...	8/6
"	Binding Cases	2/6
"	File Cases	1/-
"	and Bookkeeper's Vade-Mecum.	
"	(Whatley)	7/6
"	Assistant. (Beckett)	6/-
"	Code doz.	5/-
"	Compendium. (Dawson) (2nd Edition)	21/-
"	Diary. II.C. (Foolscap 1 day to page) ...	8/-
"	" II. (" 2 ") ...	3/6
"	" III. (" 3 ") ...	1/6
"	" III.A (" 3 ") ...	2/-
"	" IV. & IV.F. (8vo 1 ") ...	5/-
"	" V. (" 2 ") ...	2/6
"	Manual. Vols. I. to X. ... each	12/6
"	" Vol. III.	10/6
"	" The set of 10 Vols. ...	100/-
Advanced Accounting.	(Dicksee) (2nd Edition) ...	21/-
Agricultural Accounts.	(Meats)	5/-
Ante-Audit.	... each 1/-; 1/2 doz. 5/6; doz.	10/-
Auctioneers' Accounts.	(Dicksee) (2nd Edition) ...	3/6
Audit Note Books I. & II.,	each -/6, doz. 5/-; 100	40/-
"	III. ... each 2/-; doz.	20/-
"	" ... 50 70/-; 100	110/-
Auditing.	(Dicksee) (7th Edition)	21/-
Australian Mining Companies' Accounts.	(Godden & Robertson)	3/6
Bank Bookkeeping and Accounts.	(Meelboom) (2nd Edition)	5/-
Bankruptcy.	(Stevens) (2nd Edition)	7/6

GEE & CO., 34 MOORGATE ST., LONDON, E.C.

GEE & CO., PUBLISHERS,

	Pub. Price NET
Bankruptcy. Time Table.	-/6
„ Trustee's Estate Book. (Dicksee) each 4/- ; doz.	40/-
„ Trustees, Liquidators and Receivers, Law of. (Willson) (2nd Edition) ...	10/-
Bookkeeping, Antiquity of. (Heaps)	1/-
„ Elementary. (Day)	1/-
„ Elements of. (Streeter)	1/6
„ Exercises. (Dicksee)	3/6
„ for Accountant Students. (Dicksee) (5th Edition)	10/6
„ „ Company Secretaries. (Dicksee)	3/6
„ „ Executors and Trustees. (Hawkins)	3/6
„ „ Publishers. (Allen)	2/6
„ „ Retail Traders. (Findlay)	3/-
„ „ „ Record Book. (Findlay)	4/-
„ „ Solicitors. (Hodsoll)	3/6
„ „ Technical Classes and Schools. (Clarke)	2/6
„ „ Principles of. (Carlill)	3/6
Brewers' and Bottlers' Accounts. (Lanham) ...	10/6
Brickmakers' Accounts. (Fox)	3/6
Builders' Accounts. (Walbank) (2nd Edition) ...	3/6
Building Societies' Accounts. (Grant-Smith) ...	3/6
„ Society Table and Loan Calculations. (Johnson.)	1/-
Chartered Accountants' Charges. (Pixley) (3rd Edition)	10/6
Companies Act, 1900. (Reid)	1/-
„ „ „ Duties of Auditors under Company Secretary. (Fox) (5th Edition) ...	25/-
„ „ Winding-up Time Table	-/6
Compendium, Accountant's. (Dawson) (2nd Edition)	21/-
Co-operative Societies' Accounts. (Sugden) ...	5/-
Cost Accounts (Hawkins)	5/-
„ „ Multiple. (Garry)	3/6
„ „ of an Engineer and Ironfounder. (Best)	2/6
„ „ Single (Mitchell)	3/6
„ „ Terminal. (Nesbit)	3/6
Cotton Spinners' Accounts. (Moss)	5/-
Dairy Accounts. (Rowland)	3/6
Depreciation, Reserves, and Reserve Funds. (Dicksee)	3/6

GEE & CO., PUBLISHERS,

	Price NET
Depreciation Tables. (Dicksee)	1/-
Drapers' Accounts. (Richardson)	3/6
Early Stages of Preparation for the Accountancy Papers of the Intermediate. (Cutforth) ...	2/6
Electric Lighting Accounts. (Johnson)	5/-
Engineers' and Shipbuilders' Accounts. (Burton)	3/6
Errors in Balancing. (2nd Edition)... ..	1/-
Examination Guide, Intermediate. (Nixon) ...	3/6
" " Final. (Nixon)	5/-
" Papers (Questions & Answers) May and November in each year, each ...	2/6
Examinations, Chartered Accountants', How to Prepare for. (Carlill)	1/6
Executors and Trustees' Bookkeeping. (Hawkins)	3/6
Executorship Accounts. (Caldicott) (3rd Edition)	3/6
" " Student's Guide to. (Carter)	3/6
" " (Whinney) (2nd Edition)	7/6
Factory Accounts. (Garcke & Fells) (5th Edition)	7/6
Fishing Industry Accounts. (Williamson) ...	3/6
Forms of Accounts. (Johnston)	2/6
Fraud in Accounts	3/6
Friendly Societies' Accounts. (Furnival Jones) ...	5/-
Gas Accounts (2nd Edition)... ..	5/-
Goodwill and its Treatment in Accounts. (Dicksee & Tillyard) (3rd Edition)	5/6
Grain, Hay, &c., Accounts. (Johnson)	3/6
Grocers' Bookkeeping. (Webster Jenkinson) ...	1/-
Hire-Purchase Wagon Trade, &c., Bookkeeping and Accounts for. (Johnson)	1/6
Hotel Accounts. (Dicksee)	3/6
How to Read a Balance Sheet. (Pixley) ...	-/6
Income Tax Practice, Guide to. (Murray & Carter) (4th Edition)	10/-
Insurance Companies' Accounts. (Tyler)	10/6
Jewellers' Accounts. (Allen Edwards)	5/-
Laundry Accounts. (Livesey)	3/6
Lexicon for Trustees in Bankruptcy, &c. Bound Boards. (Dawson)	3/6
List of Members. (Institute of Chartered Accountants)	2/-
Medical Practitioners' Accounts. (May)	3/6
Metric System. (Streeter)	1/-
Mineral Water Manufacturers' Accounts. (Lund & Richardson)	3/6
Multiple Cost Accounts. (Garry)	3/6

GEE & CO., PUBLISHERS,

	Pub. Price NET.
Multiple Shop Accounts. (Hazelip)	3/6
Municipal Accounts. (Allcock)	10/6
„ Finance for Students	2/6
„ Internal Audit. (Collins)	3/6
„ Rating. (Pearce)	5/-
Newspaper Accounts. (Norton & Feasey) ...	10/-
Parliamentary Companies. (Keen)	1/-
Partnership Accounts. (Child) (4th Edition) ...	2/6
Pawnbrokers' Accounts. (Thornton & May) ...	3/6
Personal and Domestic Accounts. (Ibotson) ...	1/-
Polytechnic Accounts. (Calder Marshall) ...	3/6
Printers' Accounts. (Lakin-Smith)	3/6
Professional Accountants. (Worthington) ...	2/6
Publishers' Accounts. (Allen)	2/6
Quarry Accounts. (Ibotson)	3/6
Rating, Municipal. (Pearce)	5/-
Retail Traders, Account Book for. (Day) ...	5/-
Rights and Duties of Trustees, Liquidators, and Receivers, Chart of the. (Willson)	1/-
Shipping Accounts. (Daly)	3/6
Shopkeepers' Accounts. (Quin) (2nd Edition) ...	2/6
Solicitors' Accounts. (Dicksee)	3/6
Some Legal Terms	1/-
Stamp Duties and Receipts, Handbook to. (Lakin-Smith)	2/6
Stockbrokers' Accounts. (Callaway)	3/6
Student's Guide to Accountancy	2/6
Table A. [Revised]	-/6
Terminal Cost Accounts. (Nesbit)	3/6
Theatre Accounts. (Chantrey)	3/6
Timber Merchants' Accounts. (Smith)	3/6
Tramway Accounts. (McColl)	10/6
Trial Balance Book, "Handy" each -/7; doz.	5/-
Trustees, Chart of the Rights and Duties of. (Willson)	1/-
„ Liquidators, and Receivers, Accounts of. (Dawson)	3/6
„ Liquidators, and Receivers, Law of. (Willson) (2nd Edition)	10/-
Underwriters' Accounts. (Spicer & Pegler) ...	3/6
Urban District Councils' Accounts. (Eckersley)	5/-
Vade-Mecum, Accountant's and Bookkeeper's. (Whatley)	7/6
Van de Linde's Bookkeeping. (2nd Edition) ...	7/6
Water Companies' Accounts. (Key)	3/6
Wine and Spirit Merchants' Accounts. (Sabin) ...	5/-
Woollen, &c., Accounts. (Mackie)	3/6

56 Pages.

Demy 8vo Cloth.

Price 1s. Net.

Personal and Domestic Accounts

By J. G. P. IBOTSON, A.C.A.

A USEFUL HANDBOOK on Personal Accounts has just been published. The work consists of 56 pages and deals with the subject as follows :—

- | | |
|--|------------------------------------|
| 1.—Introductory. | 8.—Income and Expenditure Account. |
| 2.—Records of Payment. | 9.—Capital Accounts. |
| 3.—Records of Receipt. | 10.—Comparative Statements. |
| 4.—The Cash Book. | 11.—Vouchers. |
| 5.—Classification. | 12.—Income Tax. |
| 6.—The Ledger. | 13.—Trust Accounts. |
| 7.—Receipts and Payments Account, and Balance Sheet. | Appendix. |

PRICE 2s. 6d. Net.

Hand-Book to Stamp Duties and Receipts.

By H. LAKIN-SMITH, F.C.A., F.S.S.

CONTAINS A FULL DISCOURSE UPON RECEIPTS, PARTICULARS OF DUTIES, AND FEES PAYABLE ON REGISTRATION OF COMPANIES, DEATH DUTIES, ETC.

GEE & CO., 34 Moorgate Street, London, E.C.



3 1924 050 075 542

"The Accountants' Library."

This in	DATE DUE				ed
monthly,					all
classes of					
The fo					s)
have alrea					
I.—Bank Bo					6
Accounts (
II.—Auctio					6
(DICKSEE)					
III.—Buil d					6
(WALBANK)					
IV.—Agricul					8
Income Tax					
V.—Theatre A					6
VI.—Co-opera					
counts (Suc					6
VII.—Gas Acc					
VIII.—Minera					6
facturers'					
RICHARDSON					6
IX.—Stockb					
(CALLAWAY,					6
X.—Grain, Fl					
Merchants'					6
To Sub					of
2s. 6d. pe					6-
scriptions					se
desirous of					6s

must be paid for *en bloc*. (£2 17s. 6d. for the First Series; £4 for the first 26 Volumes of the Second Series.)

Subscribers who may not wish to acquire the whole of the back volumes may, however, commence their Subscription with Vol. XXI. (which commences the Second Series).

Single copies of any volume may be obtained at the ordinary rates as detailed above.

The Accountants' Library.

(SECOND SERIES)

SUBSCRIPTIONS are invited for a Second Series of volumes which are being issued monthly in connection with this publication. The first twenty-six issues (Vols. XXI. to XLVI. of the whole Series) have now been published as follows:—

- | | |
|--|--|
| XXI.—MUNICIPAL ACCOUNTS. (ALLCOCK)
Triple Number, 10/6 | XXXIV.—BRICKMAKERS' ACCOUNTS.
(Fox) 3/6 |
| XXII.—UNDERWRITERS' ACCOUNTS.
(SPICER & PEGLER) 3/6 | XXXV.—TIMBER MERCHANTS' ACCOUNTS. (SMITH) 3/6 |
| XXIII.—JEWELLERS' ACCOUNTS.
(ALLEN EDWARDS) Double
Number, 5/- | XXXVI.—INSURANCE COMPANIES' ACCOUNTS. (TYLER) Triple
Number, 10/6 |
| XXIV.—MULTIPLE-SHOP ACCOUNTS.
(HAZELIP) 3/6 | XXXVII.—HOTEL ACCOUNTS. (DICKSEE)
3/6 |
| XXV.—BUILDING SOCIETIES' ACCOUNTS.
(GRANT-SMITH) 3/6 | XXXVIII.—LAUNDRY ACCOUNTS. (LIVE
SEY) 3/6 |
| XXVI.—DEPRECIATION, RESERVES,
AND RESERVE FUNDS.
(DICKSEE) 3/6 | XXXIX.—COTTON SPINNERS' ACCOUNTS.
(MOSS) 5/- |
| XXVII.—QUARRY ACCOUNTS. (IBOTSON)
3/6 | XL.—SHIPPING ACCOUNTS. (DALY) 3/6 |
| XXVIII.—FRIENDLY SOCIETIES' ACCOUNTS. (FURNIVAL)
JONES) 5/- | XLI.—TRUSTEES', LIQUIDATORS', AND
RECEIVERS' ACCOUNTS.
(DAWSON) 3/6 |
| XXIX.—ELECTRIC LIGHTING ACCOUNTS.
(JOHNSON) 5/- | XLII.—MULTIPLE-COST ACCOUNTS
(GARRY) 3/6 |
| XXX.—FRAUD IN ACCOUNTS. (EDITOR)
3/6 | XLIII.—WOOLLEN, &c. ACCOUNTS
(MACKIE) 3/6 |
| XXXI.—DRAPERS' ACCOUNTS. (RICHARD-
SON) 3/6 | XLIV.—BREWERS' AND BOTTLERS' ACCOUNTS. (LANHAM) Triple
Number, 10s. 6d. |
| XXXII.—WINE MERCHANTS' ACCOUNTS.
(SABIN) Double Number, 5/- | XLV.—URBAN DISTRICT COUNCILS' AC-
COUNTS. (ECKERSLEY) Double
Number, 5s. |
| XXXIII.—DAIRY ACCOUNTS. (ROWLAND)
3/6 | XLVI.—TERMINAL COST ACCOUNTS.
(NISBET) 3/6 |

It is expected that the two Series will comprise about 50 volumes in all.

Arrangements have already been made for the following subjects to be dealt with (but not necessarily in the order stated). Applications are, however, invited from competent authors desirous of undertaking further suitable subjects:—

Colliery Accounts, by JOHN MANN & SONS, C.A.

Loose-Leaf and Card Systems of Bookkeeping, by L. PASCOE WILLIAMS, A.C.A.

Operating Costs

Process Costs

Single Costs

SUBSCRIPTION ORDER FORM.

To Messrs. GEE & CO.

Dear Sirs,—I request you to forward to me ^{* Vols. I. to XX.} Vols. XXI. to end of whole of the Volumes "THE ACCOUNTANTS' LIBRARY" as published, and I hereby agree to pay for the same at the special subscription rate of 2s. 6d. net for each single Volume, and 3s. 9d. net for each Volume issued as a "Double Number."

Name

Date..... Address

* Strike out two lines, in accordance with your requirements.

